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## Bill Analysis

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**Primary Sponsors:** Reps. Hoops and Daniels

Reid J. Fleeson, Attorney

### SUMMARY

#### Forcible entry and detainer changes

- Eliminates the option for a forcible entry and detainer action to be brought against a manufactured home park resident, or the resident's estate, based on the resident's or estate's recreational vehicle.
- Requires the titled owner of a manufactured or mobile home be joined as a defendant in a forcible entry and detainer action against a manufactured home park resident who is not the titled owner of the home.
- Requires notice of a forcible entry and detainer action, if the adverse party is a titled owner, be left at the premises from which the defendant is sought to be evicted and be sent by ordinary mail to the titled owner if the owner's name and address is known.
- Revises the required language that must be included with a summons under the forcible entry and detainer law to refer to a complaint filed against a resident of a manufactured or mobile home.
- Conditions forcible entry and detainer judgment language in favor of a park operator plaintiff permitting plaintiff to remove and dispose of defendant's manufactured home, mobile home, or recreational vehicle upon subsequent entry for disposition of a manufactured or mobile home.

#### Removal of manufactured or mobile home after eviction

- Makes numerous changes concerning proceedings to remove and dispose of an abandoned manufactured or mobile home following a titled owner's eviction, including the following:
  - Generally applicable changes concerning the proceeding, such as, for example:

- ❖ Eliminating the ability for a park operator to bring an action for removal of an abandoned recreational vehicle when certain conditions are met;
- ❖ Changing the name of the court order issued following a forcible entry and detainer action that empowers various officers and officials to take action.
- Changes to the requirements prior to the removal and disposition of the manufactured or mobile home, such as, for example:
  - ❖ Requiring the written notice that a park operator must provide the titled owner prior to initiating a proceeding to remove the home to be posted to the home's door or sent by ordinary mail to the owner's last known address;
  - ❖ Specifying that the general public records search requirement is for purposes of identifying persons other than the titled owner;
  - ❖ Provides that the titled owner's estate forfeits its interest in the home if a probate court grants administration with respect to the titled owner's estate, and the executor or administrator does not pay rent or storage fees before the manufactured or mobile home is removed or sold by an interested person;
  - ❖ Permits the affidavit that must be submitted to the county auditor by the park operator seeking to acquire title to an abandoned manufactured or mobile home be done electronically.
- Alters numerous requirements that apply concerning the removal or disposition of an abandoned manufactured or mobile home, including, for example:
  - ❖ Revises the form of the court order that must be issued when title to an abandoned manufactured or mobile home is transferred when no public auction is required, when auction occurs but there is no bidder, or when there is a successful bidder at the auction;
  - ❖ Increases the value that an abandoned manufactured or mobile home must meet to trigger the public auction requirement from \$3,000 to \$10,000;
  - ❖ Prohibits the filing fee for a court order for title upon an abandoned manufactured or mobile home from exceeding the court's standard motion fee;
  - ❖ Prior to the public auction, requires the plaintiff to issue notice of the sale to any lienholders or persons with an outstanding interest in the abandoned home by certified mail, return receipt requested;
  - ❖ Repeals the requirement that an abandoned home be offered for sale on two occasions before title is transferred to the plaintiff due to a lack of bidders;
  - ❖ Requires a successful bidder at the auction that intends to reside at the park after the sale to apply for residency and receive such approval at least seven days prior to the auction;
  - ❖ Specifies that the judge must immediately issue an order commanding the sheriff, police officer, constable, or bailiff delaying all further proceedings upon the

execution until the court's disposition if an appeal of the forcible entry and detainer action is filed, a stay of execution is obtained, and required bonds are filed;

- ❖ Provides that a park operator is not liable for: (1) damages caused by the operator's removal of the home or personal property from the residential premises, or (2) damage to the home or personal property during the time it remains abandoned or stored in the manufactured home park.
- Exempts a park operator who receives title to an abandoned manufactured or mobile home under the bill from paying generally applicable county auditor fees for receiving statements of value relating to property conveyances.
- Requires both of the following when an abandoned manufactured or mobile home is destroyed: (1) a county auditor to waive all unpaid manufactured home taxes charged against a destroyed manufactured or mobile home within one year after title is transferred to a park operator, and (2) the home's owner to dispose of the home's title certificate in accordance with current law concerning motor vehicle certificates of title.

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## DETAILED ANALYSIS

### Introduction

Ohio's forcible entry and detainer law creates a process for determining that a person, such as a tenant or manufactured home park resident, has made unlawful and forcible entry on to property and for the removal of such persons (commonly referred to as an eviction action).<sup>1</sup> The bill makes several changes to the forcible entry and detainer law as applied to manufactured and mobile homes.

### Definitions

The bill makes the following changes to the definitions under the forcible entry and detainer law:

- Removes the definitions of "recreational vehicle" and "mobile home," which are defined in the motor vehicles law.<sup>2</sup>
- Includes tangible personal property that is a recreational vehicle subject to a forcible entry and detainer action as "personal property."
- Defines "titled owner" as a person or estate that owns a manufactured or mobile home located in a manufactured home park, regardless of whether the person or estate is entitled to occupy the lot under the rental agreement with the park operator.

Continuing law, unchanged by the bill defines the following terms:

- "Manufactured home" means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with certain federal construction and safety standards and that has a permanent label or tag affixed to it, as specified in federal law, certifying compliance with all applicable federal construction and safety standards.
- "Manufactured home park" means any tract of land, with certain exclusions, upon which three or more manufactured or mobile homes used for habitation are parked, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use

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<sup>1</sup> R.C. Chapter 1923.

<sup>2</sup> Though the definitions of "recreational vehicle" and "mobile home" are removed, those terms remain used in the forcible entry and detainer law (R.C. 1923.09(B), regarding recreational vehicles and R.C. 1923.01, 1923.02, 1923.09, 1923.11, 1923.12, 1923.13, and 1923.14, regarding mobile homes).

as a part of the facilities of the park. Additionally, the term also includes any tract of land upon which one or two manufactured or mobile homes used for habitation are parked, pursuant to rental agreements between the owners of the manufactured or mobile home and the owner of the tract of land.

- “Park operator” means the person who has responsible charge of a manufactured home park and who is licensed by the state to operate the park, as well as a landlord of premises upon which one or two manufactured or mobile homes used for habitation are parked, pursuant to rental agreements between the owners of the manufactured or mobile homes and a landlord who is not licensed as a manufactured home park operator.<sup>3</sup>

## **Forcible entry and detainer action changes**

### **Action based on recreational vehicle**

The forcible entry and detainer law provides for various circumstances when a forcible entry and detainer action may be brought. The bill removes recreational vehicles from being the subject of a forcible entry and detainer action against a manufactured home park resident or the resident’s estate.<sup>4</sup>

### **Titled owner joinder**

The bill requires that the titled owner of a manufactured or mobile home be joined as a defendant in a forcible entry and detainer action against a manufactured home park resident who is not the titled owner of the home.<sup>5</sup>

### **Notice before action**

Under the bill, a party desiring to commence a forcible entry and detainer action against an adverse party that is a titled owner must notify the owner to leave the premises by leaving the notice at the premises from which the defendant is sought to be evicted and also sent by ordinary mail to the titled owner if the titled owner’s name and address is known to the park operator. Current law generally requires that notice be (1) sent by certified mail, return receipt requested, or (2) a written copy handed to the defendant in person or leaving it at the defendant’s usual place of abode or the premises from which the defendant is sought to be evicted.<sup>6</sup>

### **Forcible entry and detainer summons**

The bill revises the required language that must be included with a summons under the forcible entry and detainer law to state, in part: “A complaint to evict you or the resident of your

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<sup>3</sup> R.C. 1923.01; R.C. 3781.06, 4501.01, and 4781.01, not in the bill.

<sup>4</sup> R.C. 1923.02(A)(12).

<sup>5</sup> R.C. 1923.02(E).

<sup>6</sup> R.C. 1923.04.

manufactured or mobile home has been filed with this court.” Existing law states that such a summons must state: “A complaint to evict you has been filed with this court.”<sup>7</sup>

### **Judgment language permitting removal and disposition of property**

Under the bill, if a judgment is entered under the forcible entry and detainer law in favor of a plaintiff who is a park operator, and upon subsequent entry for disposition of a manufactured or mobile home, the judge must include authority in the judgement entry for the plaintiff to permit the removal and potential sale, destruction, or transfer of ownership of the defendant’s manufactured home, mobile home, or recreational vehicle (discussed next). Existing law does not condition such authority in the judgment entry upon subsequent entry for disposition of a manufactured or mobile home.<sup>8</sup>

### **Removal of manufactured or mobile home after eviction**

Following a court-ordered eviction and the subsequent abandonment of a manufactured home or mobile home, a park operator may, after fulfilling several legal requirements, initiate a proceeding to remove and dispose of the home from the manufactured home park. Under both current law and the bill, the abandoned manufactured home or mobile home may be sold at a public auction or its title may be transferred to the park operator, with differing processes and requirements for each. The bill makes numerous changes to this process, which are described below.

#### **General changes**

##### **“Resident” to “titled owner”**

The bill replaces “resident” or “resident’s estate” with “titled owner” or “titled owner’s estate,” as applicable, in numerous locations throughout the provisions governing the removal of manufactured or mobile homes proceeding. The bill also clarifies that an “owner” of either type of home is the “titled owner.”<sup>9</sup>

##### **Elimination of removal of abandoned recreational vehicle action**

Consistent with the removal of recreational vehicles from forcible entry and detainer actions regarding recreational vehicles, the bill eliminates the ability for a manufactured home park operator to bring an action for the removal of a recreational vehicle when the titled owner has been evicted and has abandoned or left unoccupied the vehicle for three days following the eviction judgment.<sup>10</sup>

##### **Writ of execution name change**

Under current law, the court order issued after eviction empowering various officers and officials to remove the defendant from the premises and, if applicable, take action concerning

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<sup>7</sup> R.C. 1923.06(B).

<sup>8</sup> R.C. 1923.09(B).

<sup>9</sup> R.C. 1923.12 to 1923.14.

<sup>10</sup> R.C. 1923.12(A); R.C. 1923.11 to 1923.14.

the removal of an abandoned manufactured or mobile home is called a “writ of execution.” The bill changes the name of the court order as follows: (1) for actions that do not involve a manufactured or mobile home, the order is called a “restitution on the judgment,” (2) for actions that do involve a manufactured or mobile home, the order is called an “order on the judgment.”<sup>11</sup>

### **Various instances unchanged**

Despite the changes described immediately above several instances where “resident” and “writ of execution” remain unchanged. Additionally, a reference to the removal, destruction, or transfer of a recreational vehicle remains. An amendment may be needed to conform these instances with the rest of the bill.<sup>12</sup>

## **Prior to the home removal and disposition**

### **Notice to remove the home**

Prior to initiating a proceeding to remove an abandoned manufactured or mobile home after an eviction, the park operator is required to provide the titled owner with a written notice to remove the home from the manufactured home park within 14 days after the notice delivery date. The bill allows the operator to post the notice to the door of the home in question or send it by ordinary mail to the titled owner’s last known address. Under current law, the operator must provide the notice to the owner via personal delivery or ordinary mail to the owner’s last known address.<sup>13</sup>

### **Home removal and disposition at operator’s discretion**

The bill provides that, subject to the “**Deceased owner provisions**” below, if the titled owner does not remove the manufactured or mobile home within 14 days after delivery of the notice, the park operator may follow the procedures described below to permit the removal and sale, destruction or transfer of ownership of the home at the operator’s discretion. Current law does not specify that the sale, destruction, or transfer of ownership of the home is at the discretion of the operator.<sup>14</sup>

### **General public records search**

Current law requires a park operator, prior to requesting a court order regarding the removal of an abandoned manufactured home or mobile home, to conduct a search of public records for the purpose of identifying any person who has a right, title, or interest in the home. If the search reveals any person who has an outstanding right, title, or interest in the home, the operator must provide written notice, containing specified language, to remove or arrange for the sale of the home within 21 days of delivery of the notice.

The bill modifies this records search and written notice requirement as follows:

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<sup>11</sup> R.C. 1923.13(A) and (B)(1); R.C. 1923.12 to 1923.14.

<sup>12</sup> R.C. 1923.09(A) and 1923.12 to 1923.14.

<sup>13</sup> R.C. 1923.12(A).

<sup>14</sup> R.C. 1923.12(A).



- Specifies that the search is for the purpose of identifying persons other than the titled owner;
- Requires the clerk of courts to provide the title information upon request;
- Removes the option for the park operator to provide personal delivery of the written notice, and instead requires the operator to provide the written notice by ordinary mail to the person's last known address;
- Requires the operator to: (1) notify the person that they have 21 days after delivery of the notice to preserve the person's ownership interest in the home by paying the park owner any outstanding rent and storage fees, and (2) that failure to do so results in the person forfeiting any further action on the title to the home;
- Requires the notice to provide the amount of fees owed, how to pay the fees, and information on how to contact the titled owner for the sale or removal of the home;
- Revises the specific language of the notice to: (1) provide that the person is being asked to "pay outstanding fees" for the home rather than being asked to "remove" the home, and (2) specify the outstanding fee amount and where the titled owner can be contacted at.<sup>15</sup>

### ***Removal if general public records search finds no interested person***

The bill provides that, if the general public records search does not locate a person with an outstanding right, title, or interest in the manufactured or mobile home, that the park operator may follow the procedures described below to permit the removal and sale, destruction, or transfer of ownership of the home at the discretion of the park operator without limitation by the court. Current law does not specify that the sale, destruction, or transfer of ownership is at the discretion of the operator.<sup>16</sup>

### ***General public records search reveals deceased owner***

Under the bill, if the search or inquiries reveal that the titled owner is deceased, then the park operator must publish notice of a court order petition in a newspaper of general circulation in the county where the home has been abandoned, which must contain the deceased's name and the last known address of the home. The notice must run once a week for two consecutive weeks. After providing certification from the newspaper and a signed affidavit attesting to the publication to the clerk of courts, the park operator can follow the procedures described below to permit the removal and sale, destruction, or transfer of ownership of the home. The bill specifies that the sale, destruction, or transfer of ownership is at the discretion of the park operator without limitation by the court.<sup>17</sup>

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<sup>15</sup> R.C. 1923.12(C)(1) and (2).

<sup>16</sup> R.C. 1923.12(C)(3).

<sup>17</sup> R.C. 1923.12(D)(3).

## **Disposition of home by person having interest other than titled owner**

The bill requires, if a sale of the manufactured or mobile home is arranged by the person having an interest in the home other than the titled owner, the seller must pay any rent due to the park operator during the pendency of the sale. Current law provides, if a sale of the home is arranged, the person must pay any rent due during the pendency of the sale.

Further, the bill specifies that if the person having an interest in the manufactured or mobile home does not remove or arrange its sale within 21 days after receiving the notice regarding the home, the park operator may follow the procedures described below to permit the removal and sale, destruction, or ownership transfer of the home.<sup>18</sup>

### **Deceased owner provisions**

#### ***Deceased owner estate administration granted***

The bill provides that, in the case of a deceased titled owner, if a probate court grants administration with respect to the titled owner's estate, and the executor or administrator does not pay rent or storage fees before the manufactured or mobile home is removed or sold by a person having an interest in the home, the titled owner's estate forfeits its interest in the home.

Continuing law allows a park operator to store a deceased titled owner's manufactured home or mobile home at a storage facility or other location within the manufactured home park during the administration of the owner's estate, provided that the operator must notify the executor or administrator of the estate where the home will be stored. The bill adds that the operator must also notify the executor or administration of rent that continues to accrue.<sup>19</sup>

#### ***Deceased owner no estate administration granted***

Under the bill, if no probate court has granted administration regarding the titled owner's estate within 21 days after the notification to remove the manufactured or mobile home is provided (see "**Notice to remove the home**" above), the park operator can file a request for a court order for title to the home. The bill repeals procedures that apply when an evicted manufactured park home resident becomes deceased prior to the resident's removal, depending on if or when a probate court grants administration of the resident's estate.<sup>20</sup>

#### ***Deceased owner public records search repealed***

The bill repeals a public records search that is required when no probate court grants administration regarding a deceased resident's estate within 90 days of when the resident is evicted from the manufactured home park. The bill also repeals and replaces (see "**Deceased owner estate administration granted**" above) the provisions addressing the procedure to be used when administration is granted within 90 days.<sup>21</sup>

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<sup>18</sup> R.C. 1923.12(C)(2).

<sup>19</sup> R.C. 1923.12(D)(1).

<sup>20</sup> R.C. 1923.12(D)(2) and (3).

<sup>21</sup> R.C. 1923.12(E)(2) and (3), repealed.

## **Affidavit regarding home value**

The bill also requires an operator seeking to acquire title to a manufactured or mobile home to submit to the county auditor an affidavit, which may be done electronically, stating all of the following: (1) that the home is abandoned, (2) whether the home is valued at \$10,000 or less, (3) the date of the eviction judgment, and (4) all persons with an outstanding interest in the home other than the titled owner. The provisions below apply depending on whether the auditor agrees or disagrees with the stated value in the affidavit.

Current law concerning the affidavit submitted to the county auditor regarding the value of the home is repealed.<sup>22</sup>

### ***Auditor agrees with the initial value submitted***

If the county auditor agrees with the value stated on the affidavit, the auditor must sign a certification of the original affidavit attesting to the agreement of the home's value and return it to the operator within 30 days.<sup>23</sup>

### ***Auditor disagrees with the initial value submitted***

If the county auditor disagrees with the stated value, they must notify the park operator within 30 days after receipt. The operator may submit additional materials in support of the stated value consistent with industry valuation standards within ten days of receiving the notice of disagreement.

If the operator submits additional materials supporting the stated value on the affidavit, then the auditor must do one of the following after reviewing the additional materials:

- If the auditor then agrees with the stated value on the affidavit, they must sign a certification of the value and return the original affidavit within ten days after receipt of the additional materials.
- If the auditor still disagrees with the stated value, the auditor must notify the operator within ten days of receiving the additional materials and the operator is permitted to appeal to the court for a ruling on the disagreement pursuant to court rule. A hearing on the home value does not require a certified appraiser.<sup>24</sup>

### ***Filing for public auction if auditor agrees value over \$10,000***

The bill requires, upon agreement that the value of the abandoned manufactured or mobile home exceeds \$10,000, the park operator must file a praecipe (which is an order commanding an individual to do something) for the sale of the home with the clerk of courts that sets forth the description and location of the home. The clerk must deliver the praecipe to the bailiff, sheriff, or officer conducting the auction to determine the date of the sale. In addition to other current law notices regarding the sale of goods upon execution, the sheriff, police officer,

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<sup>22</sup> R.C. 1923.12(E)(1) and (2) and 1923.13(B)(1).

<sup>23</sup> R.C. 1923.12(E)(2).

<sup>24</sup> R.C. 1923.12(E)(3).

constable, or bailiff must serve a written notice of the date, time, and place of the sale at the last known address of the titled owner. Such notice must also be served: (1) upon all persons who are listed on the writ of execution (but see “**Writ of execution name change**” above) as having any outstanding right, title, or interest in the abandoned home and the personal property, and (2) to the auditor and treasurer of the county in which the court issuing the writ is located.<sup>25</sup>

### ***Auditor certification of value not an official appraisal***

The bill specifies that a county auditor certification respecting the value of a manufactured or mobile home pursuant to the affidavit provisions described above is not to be construed as an official appraisal of the home for tax purposes. The auditor certification is also not admissible in any proceeding before a Board of Revision or Board of Tax Appeals.<sup>26</sup>

### ***Auditor failure to timely certify***

If the county auditor fails to timely certify or respond to an affidavit as required above, the operator can submit the affidavit to the court with verification that the auditor failed to respond to certification requests, and the court must proceed upon the sworn affidavit of the operator without certification.<sup>27</sup>

### ***Crime for knowingly falsifying information on affidavit***

The bill provides that an operator who knowingly falsifies information on an affidavit is guilty of falsification, a misdemeanor of the first degree, which may be punished by a jail term of not more than 180 days, a fine of not more than \$1,000, or both.<sup>28</sup>

## **Removal and disposition**

Under the bill and existing law, an abandoned manufactured or mobile home may be disposed of through a public auction, or a title transfer to the plaintiff if there were no bidders at the auction or no auction is required. However, the bill makes numerous changes that apply when determining if an auction is required, how that auction must be carried out, and procedures that apply after the auction. These changes are discussed in detail below.

### **Current law court order repealed**

The bill requires the court, when a judgment of restitution is entered after a judgment of forcible entry and detainer is rendered, to order the transfer of title of a manufactured home or mobile home in three cases (depending on home value): when no auction is required, when an auction is required but there is no bidder, or when an auction results in a successful bidder. Existing law creating one court order form for the transfer of title for all writs of execution issued

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<sup>25</sup> R.C. 1923.14(C); R.C. 2923.13, not in the bill.

<sup>26</sup> R.C. 1923.12(E)(4).

<sup>27</sup> R.C. 1923.12(F).

<sup>28</sup> R.C. 1923.12(G); R.C. 2921.13(F)(1), 2929.22, 2929.24, and 2929.28, not in the bill.

following a forcible entry and detainer action involving a manufactured home park resident or resident's estate is repealed.<sup>29</sup>

### **Value to trigger auction increased**

The bill increases the value that an abandoned manufactured or mobile home must meet to trigger the public auction requirement from \$3,000 to \$10,000.<sup>30</sup>

### **Title filing fee**

The bill prohibits the filing fee for a court order for title upon an abandoned manufactured or mobile home from exceeding the court's standard motion fee.<sup>31</sup>

### **When no public auction required**

When a court enters a judgment of restitution in a forcible entry and detainer action against a titled owner or titled owner's estate, the court must issue an order on the judgment to transfer the title to the plaintiff without an auction if all of the following are met:

- The park operator affidavit provides that the value of an abandoned manufactured or mobile home is less than \$10,000, and that value is affirmed by the auditor (see **"Affidavit regarding home value"** above);
- All of the previously described notice requirements are met.<sup>32</sup>

When no auction is required, the court must issue an order on the judgment in as near as practicable to the form specified by the bill. This form must:

- Be signed and dated by the judge;
- Inform the title division of the clerk of courts that:
  - A forcible entry and detention judgement was entered and that plaintiff has restitution of the premises;
  - Plaintiff has established by sworn affidavit that all of the requirements prior to the title transfer or auction are met;
  - The search for parties of interest has reasonably been completed and all notices are given;
  - Plaintiff has established just grounds that the value of the home is less than \$10,000 and the value is affirmed by certification from the county auditor;
  - Plaintiff is authorized to cause the manufactured or mobile home and all personal property and vehicles of the defendant at the residential premises to be, at the

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<sup>29</sup> R.C. 1923.13(B)(1), (2)(g), and (4)(c).

<sup>30</sup> R.C. 1923.13(B)(1) and 1923.14(B)(3) and (G)(1).

<sup>31</sup> R.C. 1923.14(A)(2).

<sup>32</sup> R.C. 1923.13(B)(1) and 1923.14(G)(1).

plaintiff's option: (1) destroyed or removed from the manufactured home park, (2) retained at its current location on the residential premises, or (3) sold by the plaintiff;

- If the plaintiff destroys the home, the plaintiff must submit a destroyed manufactured or mobile home form to the county auditor detailing the date of destruction and location of the destroyed home;
- If the home is retained at its current location or sold, the plaintiff must notify the county auditor and the title division of the clerk of courts.
- Command the clerk of courts to issue a certificate of title of the manufactured or mobile home to the plaintiff, free and clear of liens, encumbrances, taxes, security interests, and other interests, in the manner prescribed under continuing law concerning a certificate of title when ownership of a motor vehicle is transferred by operation of law. The home must be described as a year and model, with a serial number and title number.<sup>33</sup>

### **When public auction required**

If a judgment of restitution is entered by a court in a forcible entry and detainer action against a titled owner of an abandoned manufactured or mobile home, or the estate of a titled owner of an abandoned home, and the home has a value exceeding \$10,000, the home must be sold at a public auction in the manner specified by the bill.<sup>34</sup>

#### ***Prior to the auction***

##### ***Coordinating the auction***

The court must use the services of a licensed auctioneer, municipal court bailiff, or county sheriff. Expenses are to be assessed as costs to be reimbursed out of the sale proceeds.

The plaintiff must coordinate with the bailiff, sheriff, or court-appointed licensed auctioneer to schedule the sale. The sheriff, police officer, constable, or bailiff must commence the auction proceedings within 60 days of receiving the court order regarding the auction (see ***“Successful bidder court order transferring title”*** below). A bailiff of the court must be present at the auction to supervise, ensure proper procedures are followed, and receive any purchase money. Any purchase money received by the bailiff, sheriff, or auctioneer<sup>35</sup> must be deposited with the clerk of courts, along with filing a return for the sale, as soon as possible.<sup>36</sup>

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<sup>33</sup> R.C. 1923.13(B)(1); R.C. 4505.10, not in the bill.

<sup>34</sup> R.C. 1923.13(B)(2).

<sup>35</sup> This deposit requirement applies to a bailiff, sheriff, or auctioneer that receives purchase money from the auction. But, the bill states that a bailiff must be present to receive any purchase money, and later that the bailiff must collect the purchase money when there is no bidder (see R.C. 1923.13(B)(3)). It is unclear whether only a bailiff can receive purchase money, or if a bailiff must be present to receive the money, but either the sheriff or the auctioneer can also receive the money. An amendment may be needed to clarify this.

<sup>36</sup> R.C. 1923.13(B)(2)(a) and (b) and 1923.14(B)(3).

***Notice of the auction***

The plaintiff must issue notice of the sale to any lienholders or persons with an outstanding interest in the abandoned home by certified mail, return receipt requested. Additionally, the plaintiff is required to file a copy of the notice with the clerk of the municipal court at least three days prior to the auction.<sup>37</sup>

***Additional deceased title owner newspaper notice***

In addition to the other required notices, the bill also requires, when the titled owner of the manufactured or mobile home is deceased, notice to be published in a newspaper of general circulation in the county once a week for two weeks. The clerk of the municipal court is not required to send notice to the defendant regarding the defendant's right to an exemptions hearing.<sup>38</sup>

***No appraisal needed for sale***

Under the bill, an abandoned manufactured or mobile home may be sold without an appraisal. The value of the home is determined based on the affidavit submitted by the plaintiff and certified by the county auditor.<sup>39</sup>

***Removal up to sale date***

After the issuance of the court order<sup>40</sup> of the sale of an abandoned manufactured or mobile home, the titled owner may remove it at any time up to the day before the scheduled sale, destruction, or transfer of the home.<sup>41</sup>

***Auction: no bidder******Park operator court order: no bidder***

A park operator is required to file for a court order transferring title (see "***Court order transferring title when no bidders***" below) if there is no purchaser after the auction has been conducted. Existing law, applicable when there is no bidder in the auction, including requiring the abandoned home be offered for sale on two occasions before title is transferred to the plaintiff due to a lack of bidders, is repealed.<sup>42</sup>

***Return filed when no bidders***

If there are no bidders at the date of the auction, the bailiff must file a return to the court reflecting that there were no bidders. The court must then issue an order for the transfer of the

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<sup>37</sup> R.C. 1923.13(B)(2)(c).

<sup>38</sup> R.C. 1923.13(B)(2)(d).

<sup>39</sup> R.C. 1923.13(B)(2)(e).

<sup>40</sup> The bill does not define, or expressly include a requirement that a court issue, an order of sale.

<sup>41</sup> R.C. 1923.14(H).

<sup>42</sup> R.C. 1923.14(F) and (G)(1).

certificate title of the home to the plaintiff. All further proceedings terminate when the plaintiff accepts the transfer of title.<sup>43</sup>

***Court order transferring title when no bidders***

The order to transfer the title to the plaintiff must be issued in as near as practicable to the form specified by the bill. This form must:

- Be signed and dated by the judge;
- Inform the title division of the clerk of courts that:
  - A forcible entry and detention judgement was entered and that plaintiff has restitution of the premises;
  - Plaintiff has established just grounds that the value of the home is greater than \$10,000, the value is affirmed by the county auditor, and a public auction was required;
  - All requirements for the sale have been confirmed, and, with no bidders, the certificate of title for the home is transferred to the plaintiff;
  - Plaintiff is authorized to cause the home and all personal property and vehicles of the defendant at the residential premises to be, at the plaintiff's option: (1) destroyed or removed from the manufactured home park, (2) retained at its current location on the residential premises, or (3) sold by the plaintiff;
  - If the home is retained at its current location, the plaintiff must notify the county auditor and the title division of the clerk of courts, and plaintiff is responsible for taxes that accrue.
- Commands the clerk of courts to issue a certificate of title of the manufactured or mobile home to the plaintiff, free and clear of liens, encumbrances, taxes, security interests, and other interests, in the manner prescribed under continuing law concerning a certificate of title when ownership of a motor vehicle is transferred by operation of law. The home must be described as a year and model, with a serial number and title number.<sup>44</sup>

***Other court and auditor no bidder title certificate actions***

The bill also specifically states that, if the manufactured or mobile home is not sold at auction, the clerk of the court of common pleas must issue a certificate of title to the plaintiff. The certificate must contain a notation that it is issued, free and clear of all liens and encumbrances, including any liens for delinquent or current manufactured home taxes, where or not such taxes are yet due and payable. The title transfer is exempt from current law conveyance fees.

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<sup>43</sup> R.C. 1923.13(B)(2)(f).

<sup>44</sup> R.C. 1923.13(B)(2)(g); R.C. 4505.10, not in the bill.



Additionally, the county auditor must remove all such taxes from the manufactured home tax list and the delinquent manufactured home tax list, and remit any tax penalties and interest charges against the property.

The plaintiff's acceptance of the certificate of title terminates all further proceedings regarding the home.<sup>45</sup>

### ***Plaintiff actions after no bidder title***

After receiving the title to the home, the plaintiff must do both of the following: (1) notify the county auditor of the transfer of title in accordance with the law regarding the initial registration of manufactured and mobile homes in each county of situs (with the auditor then notifying the county treasurer of the title transfer), and (2) submit proof of registration with the auditor to the clerk of courts to effectuate the title transfer.

If the manufactured or mobile home is destroyed or removed, the plaintiff is required to provide the auditor with notice of removal or destruction of the home.<sup>46</sup>

### ***Auction: successful bidder***

#### ***Auction money collection***

The bill requires, if the manufactured or mobile home is sold to the highest bidder at the date of the auction, the bailiff must collect the purchase money from the highest bidder and deposit the money with the municipal clerk of courts as soon as practicable. The clerk must hold the funds on deposit until the court examines the proceedings in accordance with continuing law. The bailiff is required to file a return reflecting completion of the sale with the name of the purchaser, the purchase amount, and the sale date.<sup>47</sup>

### ***Successful bidder court order transferring title***

The plaintiff is required to file a motion for order with the court that confirms the sale, and a proposed order for transfer of title, which must be supported with an itemization of amounts to be distributed (see "***Sale payment distribution order***" below). Upon such motion, the court must issue an order confirming the sale, ordering distributions of the proceeds, and transferring title to the manufactured or mobile home, which can be presented to the common pleas title division. The clerk of courts must distribute the sale proceeds in accordance with the order confirming the sale.

Existing law regarding the court order to transfer title following a successful bidder at the auction is repealed.

The order to transfer the title to the successful bidder must be issued in as near as practicable to the form specified by the bill. This form must:

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<sup>45</sup> R.C. 319.54 and 1923.14(G)(5); R.C. 322.06, not in the bill.

<sup>46</sup> R.C. 1923.14(G)(5); R.C. 4503.061(E), not in the bill.

<sup>47</sup> R.C. 1923.13(B)(3).

- Be signed and dated by the judge;
- Inform the Title Division of the Clerk of Courts that:
  - A forcible entry and detainer judgement was entered and that plaintiff has restitution of the premises;
  - Plaintiff has established just grounds that the value of the home is greater than \$10,000, the value is affirmed by the county auditor, and a public auction was required;
  - All requirements for the sale have been met, and the certificate of title for the home is transferred to the successful bidder;
  - If the home is retained at its current location, the successful bidder must notify the county auditor and the title division of the clerk of courts;
  - Proceeds of the sale must be distributed in accordance with the **“Sale payment distribution order”** provision below.
- Commands the clerk of courts to issue a certificate of title of the manufactured or mobile home to the successful bidder, free and clear of liens, encumbrances, taxes, security interests, and other interests, in the manner prescribed under continuing law concerning a certificate of title when ownership of a motor vehicle is transferred by operation of law. The home must be described as a year and model, with a serial number and title number.<sup>48</sup>

### ***Successful bidder actions following auction***

A successful bidder intending to reside at the park after the sale must apply for residency and receive such approval at least seven days prior to the auction. Existing law providing that a successful bidder has no right to retain the home in the manufactured home park without the park operator’s consent is repealed.

If the bidder intends to remove the home after the auction, the bidder must remove it within ten days of the sale. The bidder is liable to the park operator for any damages to the park resulting from the removal. Further, the successful bidder must register title with the title division of the clerk of courts not later than ten days after receipt of the court order transferring title to the bidder.<sup>49</sup>

### ***Park operator motion confirming sale***

The park operator must, after the sale of the home, file a motion with the clerk of courts that: (1) confirms the sale, (2) sets forth the date and amount of the sale and the purchaser, and

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<sup>48</sup> R.C. 1923.13(B)(4) and 1923.14(G)(1); R.C. 4505.10, not in the bill.

<sup>49</sup> R.C. 1923.14(D), (E), and (G)(1).

(3) sets forth distribution of the proceeds of the sale as required by law (see “***Sale payment distribution order***” below).<sup>50</sup>

### ***Sale payment distribution order***

Continuing law specifies the order of how money obtained from the sale of an abandoned manufactured or mobile home is to be distributed by the sheriff, police officer, constable, or bailiff. The bill adds that the court must order the distribution of proceeds from the sale upon motion and an order to confirm the sale. The required order for distribution of the sale proceeds under current law is maintained, which is, in order: (1) storage and movement costs, and costs related to the sale, including advertising expenses paid by the operator, (2) outstanding tax liens on the home, (3) other outstanding security interests, liens, and encumbrances, (4) any outstanding monetary judgment in favor of the plaintiff and costs associated with retaining the home prior to the sale, and (5) any remainder as unclaimed funds.<sup>51</sup>

### **Delay until court disposition**

The bill specifies that, if an appeal of a judgement of restitution in a forcible entry and detainer action is filed, a stay of execution is obtained, and any required bond is filed, the judge of that court must immediately issue an order commanding the sheriff, police officer, constable, or bailiff delaying all further proceedings upon the execution until the court’s disposition. Current law provides only that such order delays all future proceedings upon the execution.<sup>52</sup>

### **Park operator liability for damages**

The bill adds that a park operator, just like a sheriff, police officer, constable, or bailiff under continuing law,<sup>53</sup> is not liable for the following damages: (1) damages caused by the operator’s removal of the home or personal property from the residential premises, or (2) damage to the home or personal property during the time it remains abandoned or stored in the manufactured home park.<sup>54</sup>

### **County auditor transfer fee exception**

Current law generally requires the county auditor to charge and receive fees for receiving statements of value relating to property conveyances depending on the value of the real property or used manufactured or mobile home transferred. The bill exempts a park operator who

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<sup>50</sup> R.C. 1923.14(F).

<sup>51</sup> R.C. 1923.14(G)(1).

<sup>52</sup> R.C. 1923.14(A)(1).

<sup>53</sup> However, continuing law is retained which exempts an operator from liability for those identical damages unless the operator or its agent acted with malicious purpose, in bad faith, or in wanton or reckless manner. Thus, it is unclear when park operators may be liable for such damages under the bill.

<sup>54</sup> R.C. 1923.14(B)(2).

receives a title transfer to an abandoned manufactured or mobile home under the bill from paying these fees.<sup>55</sup>

### **Destruction of home**

The bill provides that, if the county auditor determines that the destruction of a manufactured or mobile home occurred within one calendar year after title to the home is transferred to a park operator and the current owner providing the oath to the auditor is the same park operator, the auditor must waive all unpaid manufactured home taxes charged against the home, including taxes for which a lien has attached, but that are not yet due and payable.

Further, upon the destruction of a manufactured or mobile home, the home's owner must dispose of the home's title certificate in the same manner as current law regarding the surrender and cancellation of motor vehicle certificates of title.<sup>56</sup>

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## **HISTORY**

Action	Date
Introduced	11-04-25

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<sup>55</sup> R.C. 319.54(G)(3)(z); R.C. 319.202, not in the bill.

<sup>56</sup> R.C. 4503.0611(D) and (E); R.C. 4505.11, not in the bill.