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Representatives Hillyer, Jones

Cosponsors: Representatives Kick, Young, T., Cross, Seitz, Miller, J., Cutrona, Abrams, Bird, Carruthers, Ginter, Gross, Householder, John, Johnson, Plummer, Stein, Stephens, Stewart, Wiggam

A BILL

To amend sections 5322.01, 5322.02, and 5322.03 of 1
the Revised Code to amend the law regarding 2
self-service storage facilities. 3

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

Section 1. That sections 5322.01, 5322.02, and 5322.03 of 4
the Revised Code be amended to read as follows: 5

Sec. 5322.01. As used in sections 5322.01 to 5322.05 of 6
the Revised Code: 7

(A) "Self-service storage facility" means any real 8
property that is designed and used only for the purpose of 9
renting or leasing individual storage space in the facility 10
under the following conditions: 11

(1) The occupants have access to the storage space only 12
for the purpose of storing and removing personal property. 13

(2) The owner does not issue a warehouse receipt, bill of 14
lading, or other document of title, as defined in section 15
1301.201 of the Revised Code, for the personal property stored 16

in the storage space. 17

"Self-service storage facility" does not include any 18
garage used principally for parking motor vehicles, any garage 19
or storage area in a private residence, an establishment 20
licensed pursuant to sections 915.14 to 915.24 of the Revised 21
Code, or any property of a bank or savings and loan association 22
that contains vaults, safe deposit boxes, or other receptacles 23
for the uses, purposes, and benefits of the bank's or savings 24
and loan association's customers. 25

(B) "Owner" means a person that is ~~either the owner or~~ 26
operator of a self-service storage facility ~~or, the lessor or~~ 27
sublessor of an entire self-service storage facility ~~and that~~ 28
receives, the agent of any of the foregoing, or any other person 29
authorized by any of the foregoing to manage the facility or to 30
receive rent from an occupant pursuant to a rental agreement 31
~~that the person enters into with the occupant.~~ 32

(C) "Occupant" means a person that rents storage space at 33
a self-service storage facility pursuant to a rental agreement 34
that the person enters into with the owner. 35

(D) "Rental agreement" means any written agreement that is 36
entered into by the owner and the occupant and that establishes 37
the terms and conditions of the occupant's use of storage space 38
at a self-service storage facility. 39

(E) "Personal property" means money and every animate or 40
inanimate tangible thing that is the subject of ownership, 41
except anything forming part of a parcel of real estate, as 42
defined in section 5701.02 of the Revised Code, and except 43
anything that is an agricultural commodity, as defined in 44
division (A) of section 926.01 of the Revised Code. 45

(F) "Late fee" means any fee or charge assessed for an occupant's failure to pay rent when due. "Late fee" does not include interest on a debt, reasonable expenses incurred in the collection of unpaid rent, or costs associated with the enforcement of any other remedy provided by statute or contract.

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

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

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

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

(1) A person who has an unfiled security interest in the personal property, except that the owner's lien is not effective against a person who has a valid security interest in a motor vehicle or a valid security interest in a watercraft, whether or not the security interest in the motor vehicle or watercraft is filed;

(2) A person who meets both of the following requirements:

(a) The person has a legal interest in the personal property, a filed security interest in the personal property, or a valid security interest in the personal property that is a motor vehicle.

(b) The person consents in writing to the storage of the personal property.

(B) The owner's lien created by division (A) of this section attaches as of the date the personal property is brought to the self-service storage facility. An owner loses the owner's lien on any personal property that the owner voluntarily permits to be removed from the self-service storage facility or unjustifiably refuses to permit to be removed from the self-service storage facility.

Sec. 5322.03. An 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 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; 103

(3) All persons who have filed security agreements in the 104
name of the occupant evidencing a security interest in the 105
personal property with either the secretary of state or the 106
county recorder of the county in which the self-service storage 107
facility is located or the Ohio county of the last known address 108
of the occupant. 109

(B) (1) The notice shall be delivered in person, sent by 110
certified mail, or sent by first-class mail or private delivery 111
service with a certificate or verification of mailing to the 112
last known address of each person who is required to be notified 113
by division (A) of this section; 114

(2) If the notice is sent by certified or first-class 115
mail, then the notice shall also be sent via electronic mail to 116
the last known electronic mail address of each person who is 117
required to be notified by division (A) of this section. 118

(C) The notice shall include all of the following: 119

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

(2) An itemized statement of the owner's claim showing the 123
sum due at the time of the notice and the date when the sum 124
became due; 125

(3) A brief and general description of the personal 126
property subject to the lien. The description shall be 127
reasonably adequate to permit the person notified to identify it 128
except that any container including, but not limited to, a 129
trunk, valise, or box that is locked, fastened, sealed, or tied 130
in a manner that deters immediate access to its contents and 131

that has not been opened by the owner prior to the date on which 132
the notice is given may be described as such without describing 133
its contents. 134

(4) A notice of denial of access to the personal property, 135
if a denial of access is permitted under the terms of the rental 136
agreement, which notice provides the name, street address, and 137
telephone number of the person whom the person notified may 138
contact to pay the claim and to either obtain the personal 139
property or enter into a rental agreement for the storage of the 140
personal property; 141

(5) A demand for payment within a specified time not less 142
than ten days after delivery of the notice; 143

(6) A conspicuous statement that unless the claim is paid 144
within that time the personal property will be advertised for 145
sale and will be sold by auction ~~at a specified time and place~~ 146
and that, if no person purchases the personal property at the 147
auction, the personal property may be sold at a private sale or 148
destroyed; 149

(7) The street or internet address of the place at which 150
the sale will be held, if the sale will be held at a place other 151
than the self-service storage facility in which the personal 152
property was stored. 153

(D) (1) Any notice given pursuant to this section ~~shall be~~ 154
~~presumed delivered, if the notice that~~ is sent by first-class 155
mail or private delivery service with a certificate or 156
verification of mailing, shall be deemed delivered when it is 157
deposited with the United States postal service or private 158
delivery service and properly addressed with proper postage 159
prepaid. 160

(2) Any notice given pursuant to this section that is sent 161
by electronic mail shall be deemed delivered when it is properly 162
addressed and sent. 163

(E) The sale of the personal property shall conform to the 164
terms of the notice as provided for in this section. 165

(F) The sale of the personal property ~~shall~~ may be held at 166
the self-service storage facility or, if the street or internet 167
address of the place was included in the notice as required by 168
division (C) (7) of this section, on the internet or at the 169
nearest suitable place to the self-service storage facility at 170
which the personal property is stored. 171

(G) After the expiration of the time given in the notice, 172
an advertisement of the sale shall be published once a week for 173
two consecutive weeks in a newspaper of general circulation in 174
the county in which the self-service storage facility is located 175
or any other commercially reasonable manner. The manner of 176
advertisement shall be deemed commercially reasonable if at 177
least three independent bidders register for, view, or attend 178
the sale ~~at the time and place advertised~~. The advertisement 179
shall include all of the following: 180

(1) A brief and general description of the personal 181
property as required by division (C) (3) of this section, except 182
that the description shall describe the contents of any trunk, 183
valise, or box that is locked, fastened, sealed, or tied in a 184
manner that deters immediate access to its contents, if the 185
trunk, valise, or box is opened by the owner prior to the date 186
on which the advertisement of sale is published; 187

(2) The name and last known address of the occupant who 188
rented the storage space in which the personal property was 189

stored;	190
(3) The <u>street</u> address of the self-service storage facility;	191 192
(4) The time, place, and manner of the sale.	193
The sale shall take place at least fifteen days after the first publication.	194 195
(H) (1) Any person who has a a security interest in, or who holds a lien against, 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 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.	196 197 198 199 200 201 202 203 204 205 206 207 208
(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 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	209 210 211 212 213 214 215 216 217 218

vehicle or watercraft, from the storage space of the self- 219
service storage facility by any means under this section, ~~any~~ 220
~~person can~~ the owner may enter into a rental agreement ~~for the~~ 221
~~storage of personal property with the owner~~ with a new occupant 222
for the storage space, and the owner has no obligation to the 223
prior occupant of that storage space ~~in the self-service storage~~ 224
~~facility. Before entering into a new rental agreement, the owner~~ 225
~~must have any motor vehicle or watercraft towed from that~~ 226
~~storage space.~~ 227

(3) Upon receipt of the payment from a person other than 228
the occupant, the owner ~~shall~~ may, at the owner's sole 229
discretion, enter into a new rental agreement for the storage of 230
the personal property or, if the person meets the conditions set 231
forth in division (H) (2) of this section, shall permit the 232
person to remove the personal property from the self-service 233
storage facility. 234

(4) If the occupant pays the amount necessary to satisfy 235
the lien created by division (A) of section 5322.02 of the 236
Revised Code and the reasonable expenses incurred under this 237
section, the occupant shall immediately remove all of the 238
occupant's personal property from the self-service storage 239
facility, unless the owner of the self-service storage facility 240
agrees to enter into a new rental agreement for the storage of 241
the property. 242

(I) (1) If property on which there is a lien under division 243
(A) of section 5322.02 of the Revised Code is not sold at 244
auction, but is claimed under division (H) of this section and 245
the owner's lien is satisfied, then all legal or security 246
interest in, or any other liens held against, the property shall 247
remain intact. 248

(2) A purchaser at auction in good faith, except an owner 249
or an owner's agent, of the personal property sold to satisfy an 250
owner's lien created by division (A) of section 5322.02 of the 251
Revised Code takes the property free and clear of any rights of 252
persons against whom the lien was valid, or any persons who had 253
an interest in, or who held, any other lien against the 254
property, despite noncompliance by the owner with the 255
requirements of this section. 256

(J) The owner may examine any personal property to be sold 257
pursuant to this section. The examination may include, but is 258
not limited to, the opening of any trunk, valise, box, or other 259
container that is locked, fastened, sealed, tied, or otherwise 260
closed in a manner that deters immediate access to its contents. 261

(K) (1) If the property upon which the lien created under 262
division (A) of this section is claimed is a motor vehicle or a 263
watercraft, the owner shall have the motor vehicle or watercraft 264
towed from the premises if any of the following circumstances 265
applies: 266

(a) The notice was delivered or sent pursuant to division 267
(B) of this section to all persons holding a lien on the motor 268
vehicle or watercraft, and thirty days have elapsed since the 269
notice was delivered or sent without a response from any of 270
those persons. 271

(b) Rent and other charges related to the property remain 272
unpaid or unsatisfied by the occupant for sixty days, and no 273
lien holders have been identified. 274

(c) The owner is planning to hold a sale at auction of the 275
personal property that was stored in the self-service storage 276
unit with that motor vehicle or watercraft, in which case the 277

motor vehicle or watercraft shall be towed prior to the auction. 278

(2) The owner shall not be liable for the motor vehicle or 279
watercraft or any damages to the motor vehicle or watercraft 280
once the tower takes possession of the property. The notice 281
delivered or sent pursuant to division (B) of this section to 282
all persons holding a lien on the motor vehicle or watercraft 283
shall include the name of the towing company. The name and the 284
address of the towing company shall also be made available to 285
the occupant or any lien holder upon the presentation of a 286
document of title or another document that confirms an interest 287
in the motor vehicle or watercraft. 288

(L) The owner may satisfy the owner's lien from the 289
proceeds of any sale held pursuant to this section, but shall 290
mail the balance, if any, by certified mail, or by first class 291
mail or private delivery service with a certificate or 292
verification of mailing, to the occupant at the occupant's last 293
known mailing address. If the balance is returned to the owner 294
after the owner mailed the balance by certified mail, first 295
class mail, or private delivery service to the occupant or if 296
the mailing address of the occupant is not known, the owner 297
shall hold the balance for two years after the date of the sale 298
for delivery on demand to the occupant or to any other person 299
who would have been entitled to possession of the personal 300
property. After the expiration of the two-year period, the 301
balance shall become unclaimed funds, as defined in division (B) 302
of section 169.01 of the Revised Code, and shall be disposed of 303
pursuant to Chapter 169. of the Revised Code. 304

(M) An owner may buy at any public sale held pursuant to 305
this section. 306

(N) The rights provided by this section shall be in 307

addition to all other rights allowed by law to a creditor	308
against a debtor.	309
(O) (1) If the owner complies with the requirements for	310
sale under this section, the owner's liability to persons who	311
have an interest in the personal property sold is limited to the	312
balance of the proceeds of the sale after the owner has	313
satisfied the owner's lien.	314
(2) The owner is liable for damages caused by the failure	315
to comply with the requirements for sale under this section and	316
is liable for conversion for willful violation of the	317
requirements for sale under this section.	318
(P) If no person purchases the personal property at the	319
auction and if the owner has complied with this section, the	320
owner may do any of the following:	321
(1) Advertise and sell the personal property pursuant to	322
divisions (F) to (O) of this section;	323
(2) Sell the personal property at a private sale;	324
(3) Dispose of the personal property in any manner	325
considered appropriate by the owner including, but not limited	326
to, destroying the personal property.	327
Section 2. That existing sections 5322.01, 5322.02, and	328
5322.03 of the Revised Code are hereby repealed.	329