



Ohio Revised Code

Section 3767.06 Order of abatement to direct removal of personal property and contents - attorney general nuisance abatement fund.

Effective: June 1, 1992

Legislation: House Bill 343 - 119th General Assembly

(A) If the existence of a nuisance is admitted or established in the civil action provided for in section 3767.03 of the Revised Code or in a criminal action, an order of abatement shall be included in the judgment entry under division (D) of section 3767.05 of the Revised Code. The order shall direct the removal from the place where the nuisance is found to exist of all personal property and contents used in conducting or maintaining the nuisance and not already released under authority of the court as provided in division (C) of section 3767.04 of the Revised Code and shall direct that the personal property or contents that belong to the defendants notified or appearing be sold, without appraisal, at a public auction to the highest bidder for cash. The order also shall require the renewal for one year of any bond furnished by the owner of the real property under section 3767.04 of the Revised Code; if a bond was not so furnished, shall continue for one year any closing order issued at the time of granting the temporary injunction; or, if a closing order was not then issued, shall include an order directing the effectual closing of the place where the nuisance is found to exist against its use for any purpose and keeping it closed for a period of one year unless sooner released. The owner of any place closed and not released under bond may appear and obtain a release in the manner and upon fulfilling the requirements provided in section 3767.04 of the Revised Code. The release of property under this division shall not release it from any judgment, lien, penalty, or liability to which it may be subject.

(B) Owners of unsold personal property or contents seized pursuant to division (A) of this section shall appear and claim the personal property or contents within ten days after the order of abatement is issued and prove to the satisfaction of the court their lack of any actual knowledge of the use of the personal property or contents in the conduct or maintenance of the nuisance and that with reasonable care and diligence they could not have known of that use. Every defendant in the action shall be presumed to have had knowledge of the general reputation of the place where the nuisance is found to exist. If an owner establishes the lack of actual or constructive knowledge of the use of his personal property or contents in the conduct or maintenance of the nuisance, the unsold personal property and contents shall be delivered to the owner. If an owner does not so establish, the personal



property or contents shall be sold or otherwise disposed of as provided in division (A) of this section. For removing and selling the personal property and contents, the officer involved shall be entitled to charge and receive the same fees as he would for levying upon and selling similar property on execution. For closing the place where the nuisance is found to exist and keeping it closed, a reasonable sum shall be allowed by the court.

(C) There is hereby established in the state treasury the attorney general nuisance abatement fund. Except as otherwise provided in sections 3767.07 to 3767.11 of the Revised Code, all proceeds from the sale of personal property or contents seized pursuant to a civil action commenced or otherwise prosecuted by the attorney general under sections 3767.03 to 3767.11 of the Revised Code shall be deposited into the state treasury and credited to the fund. The attorney general shall use the fund solely to defray expenses and costs associated with those types of civil actions.

(D) All proceeds from the sale of personal property or contents seized pursuant to a civil action commenced or otherwise prosecuted under sections 3767.03 to 3767.11 of the Revised Code by a village solicitor, city director of law, or other similar chief legal officer of a municipal corporation initially shall be applied to the payment of the costs incurred in the prosecution of the civil action and the costs associated with the abatement and sale ordered pursuant to division (A) of this section, including, but not limited to, court costs, reasonable attorney's fees, and other litigation expenses incurred by the complainant. Except as otherwise provided in sections 3767.07 to 3767.11 of the Revised Code, any proceeds remaining after that initial application shall be deposited into the city or village treasury and credited to the general fund.

(E) All proceeds from the sale of personal property or contents seized pursuant to a civil action commenced or otherwise prosecuted under sections 3767.03 to 3767.11 of the Revised Code by a prosecuting attorney initially shall be applied to the payment of the costs incurred in the prosecution of the civil action and the costs associated with the abatement and sale ordered pursuant to division (A) of this section, including, but not limited to, court costs, reasonable attorney's fees, and other litigation expenses incurred by the complainant. Except as otherwise provided in sections 3767.07 to 3767.11 of the Revised Code, any proceeds remaining after that initial application shall be deposited into the county treasury and credited to the general fund.

(F) All proceeds from the sale of personal property or contents seized pursuant to a civil action



commenced under sections 3767.03 to 3767.11 of the Revised Code by a person who is a citizen of the county where the nuisance is found to exist initially shall be applied to the payment of the costs incurred in the prosecution of the civil action and the costs associated with the abatement and sale ordered pursuant to division (A) of this section, including, but not limited to, court costs, reasonable attorney's fees, and other litigation expenses incurred by the complainant. Except as otherwise provided in sections 3767.07 to 3767.11 of the Revised Code, any proceeds remaining after that initial application shall be deposited into the county treasury and credited to the general fund.