



## Ohio Revised Code

### Section 2329.13 Notice of sale of goods on execution - setting aside or confirmation of sale.

Effective: September 29, 1999

Legislation: Senate Bill 30 - 123rd General Assembly

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(A) Goods and chattels levied upon by virtue of an execution of a court of record shall not be sold until both of the following occur:

(1)(a) Except as otherwise provided in division (A)(1)(b) of this section, the judgment creditor who seeks the sale of the goods and chattels or the judgment creditor's attorney does both of the following:

(i) Causes a written notice of the date, time, and place of the sale to be served in accordance with divisions (A) and (B) of Civil Rule 5 upon the judgment debtor and upon each other party to the action in which the judgment giving rise to the execution was rendered;

(ii) At least three calendar days prior to the date of the sale, files with the clerk of the court that rendered the judgment giving rise to the execution a copy of the written notice described in division (A)(1)(a)(i) of this section with proof of service endorsed on the copy in the form described in division (D) of Civil Rule 5.

(b) Service of the written notice described in division (A)(1)(a)(i) of this section is not required to be made upon any party who is in default for failure to appear in the action in which the judgment giving rise to the execution was rendered.

(2)(a) Subject to division (A)(2)(b) of this section, the officer who levies upon the goods and chattels gives public notice of the date, time, and place of the sale for at least ten days before the day of sale by advertisement in a newspaper published in and of general circulation in the county. The court ordering the sale may designate in the order of sale the newspaper in which this public notice shall be published.

(b) If the goods to be sold are merchandise or inventory used in connection with a trade or business



and if the sale is to satisfy a judgment in favor of the state or one of its political subdivisions for delinquent taxes, public notice of the sale shall be given by advertisement in a newspaper published in and of general circulation in the county once a week for three weeks preceding the date of the sale. In the case of a sale of goods used in connection with a trade or business, notice of the location, date, and nature of that sale also shall be conspicuously posted on the premises where the trade or business is carried on and on the premises where the goods to be sold are kept if they are located elsewhere.

(B)(1) A sale of goods and chattels levied upon by virtue of an execution of a court of record may be set aside in accordance with division (B)(2) of this section.

(2) Subject to divisions (B)(3) and (4) of this section, all sales of goods and chattels levied upon by virtue of an execution of a court of record that are made without compliance with the written notice requirements of division (A)(1)(a) of this section and the public notice requirements of division (A)(2) of this section shall be set aside, on motion, by the court to which the execution is returnable.

(3) Proof of service endorsed upon a copy of the written notice required by division (A)(1)(a) of this section shall be conclusive evidence of the service of the written notice in compliance with the requirements of that division, unless, prior to the confirmation of the sale of the goods and chattels as described in division (B)(4) of this section, a party files a motion to set aside the sale pursuant to division (B)(1) of this section and establishes by a preponderance of the evidence that the proof of service is fraudulent.

(4) If the court to which the execution is returnable enters its order confirming the sale of the goods and chattels, the order has both of the following effects:

(a) The order shall be deemed to constitute a judicial finding as follows:

(i) That the sale of the goods and chattels complied with the written notice requirements of division (A)(1)(a) of this section and the public notice requirements of division (A)(2) of this section, or that compliance of that nature did not occur but the failure to give a written notice to a party entitled to notice under division (A)(1)(a) of this section has not prejudiced that party;

(ii) That all parties entitled to notice under division (A)(1)(a) of this section received adequate notice



of the date, time, and place of the sale of the goods and chattels.

(b) The order bars the filing of any further motions to set aside the sale of the goods and chattels.