



Ohio Revised Code

Section 5322.03 Enforcement of owner's lien.

Effective: March 22, 2013

Legislation: House Bill 247 - 129th General Assembly

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

(B) The notice shall be delivered in person, sent by certified mail, or sent by first-class mail with a certificate of mailing to the last known address of each person who is required to be notified by division (A) of this section;

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

- (1) The name and last known address of the occupant who rented the storage space in which the personal property was stored;
- (2) An itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due;
- (3) A brief and general description of the personal property subject to the lien. The description shall



be reasonably adequate to permit the person notified to identify it except that any container including, but not limited to, a trunk, valise, or box that is locked, fastened, sealed, or tied in a manner that deters immediate access to its contents and that has not been opened by the owner prior to the date on which the notice is given may be described as such without describing its contents.

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

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

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

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

(D) Any notice given pursuant to this section shall be presumed delivered, if the notice is sent by first-class mail with a certificate of mailing, when it is deposited with the United States postal service and properly addressed with proper postage prepaid.

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

(F) The sale of the personal property shall be held at the self-service storage facility or, if the address of the place was included in the notice as required by division (C)(7) of this section, at the nearest suitable place to the self-service storage facility at which the personal property is stored.

(G) After the expiration of the time given in the notice, an advertisement of the sale shall be published once a week for two consecutive weeks in a newspaper of general circulation in the



county in which the self-service storage facility is located or any other commercially reasonable manner. The manner of advertisement shall be deemed commercially reasonable if at least three independent bidders attend the sale at the time and place advertised. The advertisement shall include all of the following:

- (1) A brief and general description of the personal property as required by division (C)(3) of this section, except that the description shall describe the contents of any trunk, valise, or box that is locked, fastened, sealed, or tied in a manner that deters immediate access to its contents, if the trunk, valise, or box is opened by the owner prior to the date on which the advertisement of sale is published;
- (2) The name and last known address of the occupant who rented the storage space in which the personal property was stored;
- (3) The address of the self-service storage facility;
- (4) The time, place, and manner of the sale.

The sale shall take place at least fifteen days after the first publication.

(H)(1) Any person who has 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.

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

(3) Upon receipt of the payment from a person other than the occupant, the owner shall enter into a new rental agreement for the storage of the personal property or, if the person meets the conditions set forth in division (H)(2) of this section, shall permit the person to remove the personal property from the self-service storage facility.

(4) If the occupant pays 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, 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 takes the property free and clear of any rights of persons against whom the 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 the lien created under division (A) of this section is claimed is a motor vehicle or a watercraft, the owner shall have the motor vehicle or watercraft towed from the premises if any of the following circumstances applies:

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

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

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

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

(L) The owner may satisfy the owner's lien from the proceeds of any sale held pursuant to this section, but shall mail the balance, if any, by certified mail to the occupant at the occupant's last known address. If the balance is returned to the owner after the owner mailed the balance by certified mail to the occupant or if the address of the occupant is not known, the owner shall hold the balance for two years after the date of the sale for delivery on demand to the occupant or to any other person who would have been entitled to possession of the personal property. After the expiration of the two-year period, the balance shall become unclaimed funds, as defined in division (B) of section 169.01 of the Revised Code, and shall be disposed of pursuant to Chapter 169. of the



Revised Code.

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

(N) The rights provided by this section shall be in addition to all other rights allowed by law to a creditor against a debtor.

(O)(1) If the owner complies with the requirements for sale under this section, the owner's liability to persons who have an interest in the personal property sold is limited to the balance of the proceeds of the sale after the owner has satisfied the owner's lien.

(2) The owner is liable for damages caused by the failure to comply with the requirements for sale under this section and is liable for conversion for willful violation of the requirements for sale under this section.

(P) If no person purchases the personal property at the auction and if the owner has complied with this section, the owner may do any of the following:

(1) Advertise and sell the personal property pursuant to divisions (F) to (O) of this section;

(2) Sell the personal property at a private sale;

(3) Dispose of the personal property in any manner considered appropriate by the owner including, but not limited to, destroying the personal property.