



Ohio Revised Code

Section 1333.41 Lien of bailee for hire on personal property - enforcement of lien.

Effective: July 22, 1994

Legislation: House Bill 530 - 120th General Assembly

(A) Except as provided in division (E) of this section, a bailee for hire who performs services or provides materials with respect to any personal property, has a lien on the personal property to secure the reasonable value of the services he performs and the materials he provides. The lien shall be subject to prior recorded liens on the personal property. If the owner or legal possessor of the personal property, within thirty days after he has received notice that the bailee for hire has completed performing his services or providing materials, does not claim the personal property or commence litigation to claim the property, or alternatively, in the case of an owner or legal possessor who is the owner of, or the principal contractor associated with, a public or private construction project, does not deposit a surety bond in accordance with section 1333.42 of the Revised Code or file an application as described in division (D) of that section with the appropriate court of common pleas, then the bailee for hire may enforce the lien pursuant to the procedure in this section.

(B) To enforce the lien created by division (A) of this section, a bailee for hire shall do all of the following:

(1) Send a written notice as described in division (C) of this section by certified mail, return receipt requested, to the owner or legal possessor of the personal property and to any person who holds a security interest in it, at least thirty days after the bailee for hire has completed performing his services or providing materials with respect to the personal property.

(2) If any of the copies of the certified mail notice sent pursuant to division (B)(1) of this section is refused and the envelope containing the notice is returned with an endorsement showing that refusal, or if any of the copies is unclaimed and the envelope containing it is returned with an endorsement to that effect, send a copy of the written notice as described in division (C) of this section by ordinary mail, evidenced by a certificate of mailing, to the owner or legal possessor of the personal property or to the person who holds a security interest in the personal property, whichever situation applies, at least seven days prior to the proposed date of the sale of the personal property. For purposes of



determining the date on which a bailee for hire may commence the enforcement of a lien as provided in division (A) of this section, a notice sent by ordinary mail shall be deemed received within three days after the date of its certificate of mailing.

(3) Obtain from a disinterested person a written appraisal of the value of the personal property.

(4) If the personal property is appraised at five hundred dollars or more, place a classified advertisement in a newspaper of general circulation in the county in which the personal property is located, which advertisement shall describe the personal property and include a statement that is substantially similar to the following statement: "On or after (insert the date specified in the written notice described in division (C) of this section), the described personal property will be sold pursuant to section 1333.41 of the Ohio Revised Code."

(C) The written notice required by divisions (B)(1) and (2) of this section shall include all of the following:

(1) A notice of the lien created by division (A) of this section;

(2) A description of the personal property that is the subject of the lien;

(3) An itemized statement that represents the reasonable value of the services performed and the materials provided by the bailee for hire that are secured by the lien;

(4) A legible statement relative to the potential sale of the personal property, in substantially the following form: "Any personal property that is not claimed within thirty days after its owner or legal possessor has received notice that the bailee for hire has completed performing any service on the property or providing any material for the property can be sold pursuant to section 1333.41 of the Ohio Revised Code. (Insert only if applicable to the proposed sale of particular personal property: "alternatively, personal property may be sold pursuant to section 1333.41 of the Revised Code if its owner or legal possessor is the owner of, or the principal contractor associated with, a public or private construction project and fails to deposit a surety bond in accordance with section 1333.42 of the Revised Code or file an application as described in division (D) of that section with the appropriate court of common pleas within thirty days after the owner or principal contractor has



received notice that the bailee for hire has completed performing any service on the property or providing any material for the property.") The sale of the personal property described in this notice and with respect to which I have performed services or provided materials will occur on or after (insert a date that is at least thirty days after the date on which the written notice sent pursuant to division (B)(1) or (2) of this section was received by the owner or legal possessor), unless the owner or legal possessor of that personal property makes a reasonable attempt to claim it and pay the reasonable value of the services performed and of the materials provided by me prior to that date or unless the owner or legal possessor of that personal property commences litigation to claim or take possession of the property prior to that date (insert only if applicable to the proposed sale of particular personal property: "or unless, if the owner or legal possessor of that personal property is the owner of, or the principal contractor associated with, a public or private construction project, the owner or principal contractor deposits a surety bond in accordance with section 1333.42 of the Revised Code or files an application as described in division (D) of that section with the appropriate court of common pleas prior to that date")."

(D)(1) A bailee for hire who wants to sell personal property pursuant to this section shall post a sign in a conspicuous location in his place of business that contains a statement in substantially the following form: "Personal property that is not claimed by its owner or legal possessor within thirty days after he receives notice that we have performed any service on it or provided any materials for it can be sold pursuant to section 1333.41 of the Ohio Revised Code. Any owner or legal possessor of personal property who is the owner of, or the principal contractor associated with, a public or private construction project has additional options to preclude such a sale and should consult section 1333.42 of the Revised Code."

(2) After a bailee for hire has complied with divisions (B) and (C) of this section and if he has posted a sign as required by division (D)(1) of this section, he may sell the personal property that is the subject of the lien in a reasonable manner and for the best obtainable price that is not less than two-thirds of the appraised value of the personal property. Upon the sale of the personal property pursuant to this section, the claim of the bailee for hire for the reasonable value of the services he performed and of the materials he provided is canceled. The proceeds of the sale shall be applied as follows:

(a) First, to the costs of the written notice provided pursuant to division (B)(1) and, if necessary,



division (B)(2) of this section, to the cost of any newspaper advertisement required by this section, and to the cost of the sale of the property;

(b) Second, to the reasonable value of the services performed and of the materials provided by the bailee for hire;

(c) If the proceeds of the sale exceed the total of the costs of the provision of the written notice pursuant to division (B)(1) and, if necessary, division (B)(2) of this section, the cost of any newspaper advertisement required by this section, the cost of the sale, and the reasonable value of the services performed and of the materials provided by the bailee for hire, the balance shall be paid as follows:

(i) First, to any person who holds any encumbrance on the personal property;

(ii) Second, any remaining balance to the owner or legal possessor of the personal property.

(3) A bailee for hire shall not sell any personal property that is the subject of a lien as provided in division (A) of this section, if, at any time before the sale pursuant to division (D)(2) of this section has been accomplished, the owner or legal possessor of the personal property has done any of the following:

(a) Commenced any litigation to claim or take possession of the property;

(b) Made a reasonable effort to claim the property and pay the reasonable value of the services performed and of the materials provided by the bailee for hire;

(c) If the owner or legal possessor of the personal property is the owner of, or the principal contractor associated with, a public or private construction project, deposited a surety bond in accordance with section 1333.42 of the Revised Code or filed an application as described in division (D) of that section with the appropriate court of common pleas.

(E) This section does not apply to a bailee for hire who performs any service or provides any materials with respect to motor vehicles, as defined in section 4501.01 of the Revised Code; to a



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bailee for hire who is authorized to sell garments, clothing, wearing apparel, or household goods pursuant to sections 1333.22 to 1333.28 of the Revised Code; or to any other bailee for hire with respect to whom one or more sections of the Revised Code specify a procedure for selling personal property to obtain the amount due to the bailee for hire for services rendered or materials provided.