



## Ohio Revised Code

### Section 5322.03 Enforcement of owner's lien.

Effective: September 13, 2022

Legislation: House Bill 321

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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)(1) Except as otherwise provided in division (B)(2) of this section, the notice shall be delivered in person, sent by certified mail or sent by first-class mail or private delivery service with a certificate or verification of mailing to the last known address of each person who is required to be notified by division (A) of this section;

(2)(a) The notice may be sent by electronic mail to the occupant only if both of the following apply:

- (i) The occupant agreed to receive the notice via electronic mail and provided an electronic mail address to the owner in the original agreement or in a subsequent amendment to the agreement.
- (ii) The owner sends the notice via electronic mail in such a way as to establish, with a response or return receipt, that the message was delivered to the occupant's electronic mail address.



(b) If it cannot be established in accordance with division (B)(2)(a) of this section that the notice was delivered, the owner shall use another method of delivery authorized by division (B)(1) 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 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 street or internet 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)(1) Any notice given pursuant to this section that is sent by first-class mail or private delivery



service with a certificate or verification of mailing shall be deemed delivered when it is deposited with the United States postal service or private delivery service and properly addressed with proper postage prepaid.

(2) Any notice given pursuant to this section that is sent by electronic mail to an occupant shall be deemed delivered when the owner receives a response or return receipt.

(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 may be held at the self-service storage facility or, if the street or internet address of the place was included in the notice as required by division (C)(7) of this section, on the internet or 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 register for, view, or attend the sale. 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 street 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, the owner may enter into a rental agreement with a new occupant for the storage space, and the owner has no obligation to the prior occupant of that storage space.

(3) Upon receipt of the payment from a person other than the occupant, the owner may, at the owner's sole discretion, 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 division (A) of section 5322.02 of the Revised Code creates a lien is a motor vehicle, trailer, or a watercraft, the owner may, at the owner's sole discretion, have the motor vehicle, trailer, 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, trailer, or watercraft, and thirty days have elapsed since the notice was delivered or sent.

(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 or has held a sale for the personal property that was stored in the self-service storage space with that motor vehicle, trailer, or watercraft, in which case the motor vehicle, trailer, or watercraft may, at the owner's sole discretion, be towed prior to or following the sale.



(2) The owner shall not be liable for the motor vehicle, trailer, or watercraft or any damages to the motor vehicle, trailer, or watercraft once the towing service or storage facility 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, trailer, or watercraft shall include the name of the towing service or storage facility. The name and the street address of the towing service or storage facility 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, trailer, or watercraft.

As used in this division, "towing service or storage facility" means any for-hire motor carrier that removes a motor vehicle, trailer, or watercraft from a self-service storage facility pursuant to this division and any place to which that for-hire motor carrier delivers the motor vehicle, trailer, 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, or by first class mail or private delivery service with a certificate or verification of mailing, to the occupant at the occupant's last known mailing address. If the balance is returned to the owner after the owner mailed the balance by certified mail, first class mail, or private delivery service to the occupant or if the mailing 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.