



## Ohio Revised Code

### Section 926.26 Attachment or execution against commodity.

Effective: June 29, 2011

Legislation: House Bill 9 - 129th General Assembly

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(A) If an agricultural commodity is delivered to a licensed handler by the owner or by a person whose act in conveying the title to the purchaser in good faith for value would bind the owner, and a negotiable receipt is issued for it, the commodity cannot, while in the possession of the handler, be attached by garnishment or otherwise or be levied under an execution unless the receipt is first surrendered to the handler or its negotiation is enjoined. The handler shall in no case be compelled to deliver the actual possession of the commodity until the receipt is surrendered to the handler or impounded by the court. A handler's claim for a lien that has arisen under section 1307.209 of the Revised Code and that has come due shall be satisfied as follows:

(1) The handler shall give a written notice to the person on whose account the commodity is held and to any other person known by the handler to claim an interest in the commodity. The notice shall be delivered in person or by certified mail addressed to the last known place of business or residence of the person to be notified. The notice shall contain:

(a) An itemized statement of the handler's claim showing the sum due at the time of the notice and the date that it became due;

(b) A brief description of the commodity against which the lien exists;

(c) A demand that the amount of the claim as stated in the notice, and of any further claim accruing, shall be paid on or before the date specified in the notice, which shall be not fewer than ten days from the delivery of the notice if it is personally delivered or from the time when the notice reaches its destination if it is sent by mail;

(d) A statement that, unless the claim is paid within the time specified, the commodity will be advertised for sale and sold at an auction at a specified time and place.

(2) In accordance with the terms of a notice so given, a sale of the commodity at auction may be had



to satisfy any valid claim of the handler under which the handler has a lien on the commodity. The sale shall be held in the place where the commodity is held or, if that place is manifestly unsuitable for the purpose, at the nearest suitable place. After the time for the payment of claims that is specified in the notice to the depositor has elapsed, an advertisement of the sale, describing the commodity to be sold and stating the name of the owner or person on whose account the commodity is held and the time and place of the sale, shall be published once a week for two consecutive weeks in a newspaper of general circulation published in the place where the sale is to be held or, if no newspaper is published in that place, in a newspaper of general circulation published in the county in which the sale is to take place. No sale shall be held before fifteen days from the date of the first publication.

(B) At any time before the agricultural commodity is sold, any person claiming a right of property or possession in it may pay the licensed handler the amount necessary to satisfy the handler's lien and pay the reasonable expenses and liabilities incurred in advertising and preparing for the sale up to the time of payment. The handler shall deliver the commodity to the person making payment only if the person is a person entitled under this chapter to the possession of the commodity on payment of the existing charges.

(C) After the agricultural commodity has been lawfully sold to satisfy a lien arising under section 1307.209 of the Revised Code or has been lawfully sold or disposed of for any other reason, neither the licensed handler nor the agricultural commodity depositors fund created in section 926.16 of the Revised Code shall be liable for failure to deliver the commodity to the depositor or owner of the commodity or to the holder of a receipt given for the commodity when it was deposited even if the receipt was negotiable. The proceeds of the sale, after deducting the amount of any lawful lien, shall be held in accordance with this section for the benefit of the owner or the holder of the receipt. The proceeds shall be considered full satisfaction of any receipt issued for the commodity so sold and of any bailment agreement between the handler and the depositor.

(D) After the licensed handler has satisfied the handler's lien and after the handler's expenses for advertising have been met, the handler shall forward to the director of agriculture the remaining proceeds of the sale, together with such information concerning the sale and outstanding receipt or receipts as the director requires by rule. Upon the payment of the proceeds to the director, the handler shall be relieved of further responsibility for the safekeeping of them and shall be held



harmless by the state for any liabilities for any claim arising out of the transfer of the proceeds to the director. The director shall deposit the proceeds into the state treasury to be held for the benefit of the person who would be rightfully entitled to possession of the commodity had it not been sold under this section.

(E) Any person claiming an interest in proceeds delivered to the director under this chapter may file a claim for them on a form prescribed by the director. The director shall consider any claim filed under this section and render a decision in writing, stating the substance of any evidence considered and the reasons for allowance or disallowance of the claim. If the claim is allowed, the director shall provide for payment of the claim from the agricultural commodity depositors fund.

(F) The remedy for enforcing a lien provided in this section does not preclude any other remedies allowed by law for the enforcement of a lien or bar the handler's right to recover any amount of the handler's claim that is not paid by the proceeds of the sale held under this section.