

Ohio Lien Law

§ 5322.01. Definitions

As used in sections 5322.01 to 5322.05 of the Revised Code:

- "Self-service storage facility" means any real property that is designed and used only for the purpose of renting or leasing individual storage space in the facility under the following conditions:
 - The occupants have access to the storage space only for the purpose of storing and removing personal property;
 - The owner does not issue a warehouse receipt, bill of lading, or other document of title, as defined in division (O) of section 1301.01 of the Revised Code, for the personal property stored in the storage space;
 - The property has fifty or more individual storage spaces.

"Self-service storage facility" does not include any garage used principally for parking motor vehicles, an establishment licensed pursuant to sections 915.14 to 915.24 of the Revised Code, or any property of a bank or savings and loan association that contains vaults, safe deposit boxes, or other receptacles for the uses, purposes, and benefits of the bank's or savings and loan association's customers.

- "Owner" means a person that is either the owner of a self-service storage facility or the lessor of an entire self-service storage facility and that receives rent from an occupant pursuant to a rental agreement that the person enters into with the occupant.
- "Occupant" means a person that rents storage space at a self-service storage facility pursuant to a rental agreement that the person enters into with the owner.
- "Rental agreement" means any written agreement that is entered into by the owner and the occupant and that establishes the terms and conditions of the occupant's use of storage space at a self-service storage facility.
- "Personal property" means money and every animate or inanimate tangible thing that is the subject of ownership, except anything forming part of a parcel of real estate, as defined in section 5701.02 of the Revised Code, and except anything that is an agricultural commodity, as defined in division (A) of section 926.01 of the Revised Code.
- "Late fee" means any fee or charge assessed for an occupant's failure to pay rent when due. "Late fee" does not include interest on a debt, reasonable expenses incurred in the collection of unpaid rent, or costs associated with the enforcement of any other remedy provided by statute or contract.

HISTORY: 138 v H 410. Eff 1-9-81; 150 v H 120, § 1, eff. 5-4-04

§ 5322.02. Owner of a self-service storage facility has lien on stored property.

- The owner of a self-service storage facility has a lien against the occupant on the personal property stored pursuant to a rental agreement in any storage space at the self-service storage facility, or on the proceeds of the personal property subject to the defaulting occupant's rental agreement in the owner's possession, for rent, labor, or other charges in relation to the personal property that are specified in the rental agreement and that have become due and for expenses necessary for the preservation of the personal property or

expenses reasonably incurred in the sale or other disposition of the personal property pursuant to law. The owner's lien provided for in this section is also effective against the following persons:

- A person who has an unfiled security interest in the personal property, except that the owner's lien is not effective against a person who has a valid security interest in a motor vehicle, whether or not the security interest in the motor vehicle is filed;
- (2) A person:
 - Who has a legal interest in the personal property, a filed security interest in the personal property, or a valid security interest in the personal property that is a motor vehicle; and
 - Who consents in writing to the storage of the personal property. Who consents in writing to the storage of the personal property.

(B) The owner's lien created by division (A) of this section attaches as of the date the personal property is brought to the self-service storage facility. An owner loses his lien on any personal property that he voluntarily permits to be removed from the self-service storage facility or unjustifiably refuses to permit to be removed from the facility.

HISTORY: 138 v H 410. Eff 1-9-81.

§ 5322.03. Procedure for enforcement of owner's lien; rights of good faith purchasers

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:

- All persons [of] whom the owner has actual knowledge claim[ing] an interest in the personal property, and 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 facility is located or the Ohio county of the last known address of the occupant, shall be notified in accordance with divisions (B) and (C) of this section;
- The notice shall be delivered in person or sent by certified mail to the last known address of each person who is required to be notified by division (A) of this section;
- The notice shall include:
 - The name and last known address of the occupant who rented the storage space in which the personal property was stored;
 - 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;
 - 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.
 - 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;
 - A demand for payment within a specified time not less than ten days after delivery of the notice;
 - 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;

- 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.
- The sale of the personal property shall conform to the terms of the notice as provided for in this section;
- (E) 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;
- 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. The advertisement shall include:
 - 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;
 - The name and last known address of the occupant who rented the storage space in which the personal property was stored;
 - The address of the self-service storage facility;
 - The time, place, and manner of the sale.

The sale shall take place at least fifteen days after the first publication. If there is no newspaper of general circulation in the county in which the self-service storage facility is located, the advertisement shall be posted at least ten days before the date of the sale in not less than six conspicuous places in the neighborhood where the self-service storage facility is located.

- (1) Before any sale of personal property pursuant to this section, any person who has a legal interest or a security interest in the personal property may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section. Any person except the occupant may, upon payment of the amount necessary to satisfy the lien plus expenses, enter into a new rental agreement for the storage of the personal property or, if he presents proof of a legal interest in the personal property or of a right to take possession of the personal property or a court order authorizing him to take possession of the personal property, shall immediately remove the personal property from the self-service storage facility.

(2) 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 (G)(1) of this section, shall permit the person to remove the personal property from the self-service storage facility.

- If the occupant pays the amount necessary to satisfy the lien and the reasonable expenses incurred under this section, he shall immediately remove all of his personal property from the self-service storage facility, unless the owner of the facility agrees to enter into a new rental agreement for the storage of the property.
- A purchaser in good faith, except an owner or his 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 of any rights of persons against whom the lien was valid, despite noncompliance by the owner with the requirements of

this section;

- 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.
- The owner may satisfy his 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 his 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.
- An owner may buy at any public sale held pursuant to this section.
- The rights provided by this section shall be in addition to all other rights allowed by law to a creditor against his debtor.
- (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 his 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.

- 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:
 - Advertise and sell the personal property pursuant to divisions (E) to (M) of this section;
 - Sell the personal property at a private sale;
 - Dispose of the personal property in any manner considered appropriate by the owner including, but not limited to, destroying the personal property.

HISTORY: 138 v H 410. Eff 1-9-81.

§ 5322.04. Residential use prohibited.

No occupant shall use a self-service storage facility for residential purposes.

HISTORY: 138 v H 410. Eff 1-9-81

§ 5322.05. Late fee for failure to pay rent when due.

- Subject to division (B) of this section, a reasonable late fee may be imposed and collected by an owner for each service period that an occupant does not pay rent when due under a rental agreement, provided that the due date for the rental payment is not earlier than the day before the first day of the service period to which the rental payment applies. However, no late fee shall be imposed or collected if the occupant makes a rental payment in full by the third day after the due date under the rental agreement.
- No late fee may be collected pursuant to division (A) of this section unless the amount of that fee and the conditions for imposing that fee are stated in the rental agreement or an addendum to that agreement.

- For purposes of division (A) of this section, a late fee of twenty dollars for each late rental payment, or twenty per cent of the amount of each late rental payment, whichever is greater, is deemed reasonable and does not constitute a penalty. However, the contract may provide for a late fee in a greater amount if that amount is reasonable. The owner has the burden of proof that the late fee in the greater amount is reasonable.
- Any reasonable expense incurred in rent collection or lien enforcement by an owner may be charged to the occupant in addition to the late fees permitted by this section.

HISTORY: 150 v H 120, § 1, eff. 5-4-04.