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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 211  
133<sup>rd</sup> General Assembly

## Bill Analysis

[Click here for H.B. 211's Fiscal Note](#)

**Version:** As Reported by House Transportation and Public Safety

**Primary Sponsor:** Rep. Arndt

Amanda George Goodman, Attorney

CORRECTED VERSION

### SUMMARY

- Replaces the existing process under which a property owner may sell at auction an abandoned watercraft vessel or outboard motor (“vessel”) that is valued at less than \$10,000 with two new processes, one that applies to vessels valued under \$10,000 and one that applies to vessels valued \$10,000 or more.
- For vessels valued under \$10,000, specifies that a property owner may obtain title to the vessel after:
  - The vessel has been left without permission for 20 days;
  - The property owner has sent proper notice to the vessel owner and any lienholders;
  - The vessel continues to remain unclaimed for an additional ten days after notice was received; and
  - The property owner executes an affidavit with the clerk of courts affirming the proper requirements have been met to take title.
- For vessels valued \$10,000 and over, specifies that a property owner may hold a public auction at which the highest bidder may obtain title to the vessel after:
  - The vessel has been left without permission for 20 days;
  - The property owner has sent proper notice to the vessel owner and any lienholders;
  - The vessel continues to remain unclaimed for an additional ten days after notice was received;
  - The property owner advertises the public auction;
  - The property owner allows potential purchasers to inspect the vessel prior to the auction;
  - The public auction is held and the sale goes to the highest bidder;

- The property owner executes an affidavit, collects payment from the purchaser, gives the purchaser the affidavit, and then remits the payment to the county treasurer, but retains the property owner's expenses related to maintenance, repair, storage, and dockage.

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## **DETAILED ANALYSIS**

### **Current law processes**

Under current law, there are two processes by which a property owner may dispose of an abandoned watercraft vessel or outboard motor ("vessel") of another. First, a property owner may make a complaint to the appropriate law enforcement agency that the vessel (of any value) is abandoned and has remained unclaimed for 72 hours or more on the owner's property. The law enforcement agency then must order the vessel into storage and, if it is not claimed as required by law, dispose of it by sale at a public auction or to any of the following:

1. A marine salvage dealer;
2. Any other facility owned, operated, or under contract with the state or a political subdivision; or
3. A nonprofit organization.<sup>1</sup>

The second process allows a property owner to sell a vessel at a public auction conducted by the property owner and recover maintenance or repair charges, including parts and labor charges and dockage or storage charges. This process applies only if the vessel is worth less than \$10,000 and has been left on the property owner's property for six months or more without the property owner's permission. The property owner may bid at the auction.

Before the property owner can hold an auction, the owner must search for the vessel owner and any lienholders in the Department of Natural Resources' database. The property owner must send notice via certified mail (return receipt requested) to the vessel owner and lienholders, who must claim the vessel within 45 days. If the vessel is not claimed within 45 days, the vessel must be appraised and, if found to be worth less than \$10,000, may be sold at public auction. The property owner must advertise the auction and give prospective purchasers a reasonable amount of time to inspect the vessel prior to the auction. At the auction, the highest bidder becomes the purchaser of the vessel. The property owner, immediately after the auction, must file an affidavit with the clerk of court verifying that all requirements governing the auction sale have been complied with. When the purchaser pays the property owner, the property owner must give the purchaser the affidavit and then remit

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<sup>1</sup> R.C. 1547.30 to 1547.302. Current law also establishes a process by which the owner of a private dock or mooring may posts signs specifying the conditions under which a vessel may be docked. The owner may have a vessel towed if it is docked in violation of those conditions. If the vessel is not claimed as required by law, the vessel may be disposed of in the same manner as if it were ordered into storage by a law enforcement agency.

the purchase amount (less the property owner’s cost of sale, maintenance or repair charges, costs of parts or labor, and dockage or storage fees) to the county treasurer.<sup>2</sup>

The bill retains the first process, but replaces the second process with two new processes, one that applies when a vessel is worth less than \$10,000, and one authorizes a public auction sale when a vessel is worth \$10,000 or more.

### **Obtaining title to an abandoned vessel *worth less than \$10,000***

With respect to a vessel worth less than \$10,000 that has been left on a person’s property, the bill establishes the following process:<sup>3</sup>

**Step 1:** The vessel owner leaves the vessel on the property of another (“property owner”) for 20 days or more and the vessel owner does not have a valid storage or repair contract with the property owner.

**Step 2:** The property owner requests a certified watercraft dealer or an independent marine surveyor and appraiser to appraise the vessel and secures written confirmation that the fair market value of the vessel is less than \$10,000.

**Step 3:** In order to identify the vessel owner and any lienholder, the property owner causes a search to be made of the records of both of the following:

1. The Division of Parks and Watercraft in the Department of Natural Resources or, if it is known or should be known that the vessel was last registered in another state, that state’s database in which vessel records are kept; and
2. The United States Coast Guard Vessel Documentation Database.

**Step 4:** The property owner sends notice by certified mail, return receipt requested, to the last known address of the vessel owner and any lienholder of the vessel. The property owner must include both of the following in the notice:

1. A statement that the vessel must be removed from the property within ten days after receiving the notice; and
2. A statement that informs the recipient of the vessel’s location.

**Step 5:** The property owner either receives the signed receipt from the certified mail or is notified that the delivery of the certified mail was not possible.

**Step 6:** The vessel continues to remain unclaimed for more than ten days after the date that the required notice was received by the vessel owner or lienholder (as evidenced by a signed receipt) or the date that the property owner was notified that the delivery was not possible. If a lienholder does not claim the vessel within that ten-day period, the lienholder’s lien is invalid.

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<sup>2</sup> R.C. 4585.31 to 4585.34.

<sup>3</sup> R.C. 1547.305(A) and (B).

**Step 7:** The property owner executes an affidavit, in a form established by the Director of Natural Resources, affirming that all of the requirements to take title (Steps 1-6) have been met. The property owner must include all of the following with the affidavit:

1. A statement of the length of time that the vessel remained unclaimed prior to sending the notice to the vessel owner and any lienholder;
2. A statement that the property owner does not have a valid storage or repair contract with the vessel owner or lienholder;
3. A statement that, prior to sending the notice, a search of the records of the Department of Natural Resources was made to identify the vessel owner or any lienholder;
4. A statement that the notice to remove the vessel was mailed to any owner and any lienholder by certified mail, return receipt requested;
5. A statement that the vessel remains unclaimed for more than ten days after the date that the required notice was received by the owner or lienholder (as evidenced by a signed receipt) or the date that the person was notified that the delivery was not possible;
6. A statement that the vessel remains unclaimed at the time the affidavit is presented to the clerk of courts; and
7. A statement that the vessel's fair market value is less than \$10,000 after appraisal (see, **Step 2**, above). The property owner must include with the affidavit the written confirmation of the vessel's value from watercraft dealer or independent marine surveyor.

**Step 8:** The clerk of courts must issue a certificate of title, free and clear of all liens and encumbrances, to the property owner if the property owner presents an affidavit that complies with **Step 7**.

For an illustration of the timeline for obtaining title to an abandoned vessel by a property owner, see Appendix A.

### **Civil action against abandoned vessel owner**

The bill authorizes a property owner to bring a civil action in a court of common pleas or other court of competent jurisdiction against a vessel owner to recover the costs of storing or removing the vessel on the person's property (if the vessel is valued under \$10,000). The property owner may bring a civil action if (1) the vessel has been left unclaimed on the property owner's property for 20 days or more prior to sending notice as required under **Step 4**, above, and (2) the property owner does not have a valid storage or repair contract with the vessel owner.<sup>4</sup>

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<sup>4</sup> R.C. 1547.305(C)(1).

## **Impounding authority**

The bill also allows a person that owns property where a vessel, valued under \$10,000, has been left unclaimed to impound the vessel until the costs of storing the vessel have been paid or until the clerk of courts issues the property owner a certificate of title (see **Step 8**, above) if all of the following apply:

1. The vessel has been left unclaimed on the person's property for 20 days or more prior to the property owner sending notice;
2. The property owner sends notice in accordance with **Step 4**, above, to any owner and any lienholder of the vessel; and
3. The person does not have a valid storage or repair contract with the vessel owner.<sup>5</sup>

## **Disclosure statement**

Every three years, the Chief of the Division of Parks and Watercraft issues a registration certificate to a watercraft owner. Under the bill, when the owner registers or renews their watercraft, the Chief must provide to the owner a disclosure statement regarding the requirements and procedures established by the bill regarding vessels worth under \$10,000.

The disclosure statement must inform the owner that if the watercraft is left on private property of another without a valid service, repair, or storage contract, the watercraft may be rendered abandoned and subject to the process set forth in the bill.<sup>6</sup>

## **Disposing of an abandoned vessel worth \$10,000 or more**

With regard to a vessel that is worth \$10,000 or more and that has been left on the person's property, the bill establishes the following process (which retains certain elements of the auction process established in current law):

**Step 1:** The vessel owner leaves the vessel on the property of another for 20 days or more and the vessel owner does not have a valid storage or repair contract with the property owner.<sup>7</sup>

**Step 2:** The property owner requests a certified watercraft dealer or an independent marine surveyor and appraiser to appraise the vessel and secures written confirmation that the fair market value of the vessel is \$10,000 or more.<sup>8</sup>

**Step 3:** In order to identify the vessel owner and any lienholder, the property owner causes a search to be made of the records of both of the following:

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<sup>5</sup> R.C. 1547.305(C)(2).

<sup>6</sup> R.C. 1547.58.

<sup>7</sup> R.C. 1547.305(B)(2).

<sup>8</sup> R.C. 1547.306(B)(1).

1. The Division of Parks and Watercraft in the Department of Natural Resources or, if it is known or should be known that the vessel was last registered in another state, that state's database in which vessel records are kept; and
2. The United States Coast Guard Vessel Documentation Database.<sup>9</sup>

**Step 4:** The property owner sends notice by certified mail, return receipt requested, to the last known address of the vessel owner and any lienholder of the vessel. The property owner must include all of the following in the notice:

1. A statement that the vessel must be removed from the property within ten days after receiving the notice;
2. A statement that informs the recipient of the vessel's location; and
3. A statement that informs the recipient of any maintenance or repair charges, including parts and labor charges and dockage or storage charges.<sup>10</sup>

**Step 5:** The property owner either receives the signed receipt from the certified mail or is notified that the delivery of the certified mail was not possible.<sup>11</sup>

**Step 6:** The vessel continues to remain unclaimed for more than ten days after the date that the required notice was received by the vessel owner or lienholder (as evidenced by a signed receipt) or the date that the property owner was notified that the delivery was not possible. If a lienholder does not claim the vessel within that ten-day period, the lienholder's lien is invalid. However, a lienholder may, to the extent of the lienholder's previously secured interest, assert a claim for any amount deposited in the country treasury for the vessel (see "**Disposition of money from the auction,**" below).<sup>12</sup>

**Step 7:** The property owner advertises that the vessel will be sold at public auction. The property owner must publish the advertisement of sale once a week for two consecutive weeks in the auction section of a newspaper of general circulation in the county where the vessel has been left without permission. The advertisement must include the name of the owner, and the date, time, and place of the sale.<sup>13</sup>

**Step 8:** The property owner must provide a reasonable period of time prior to the auction for prospective purchasers to examine the vessel.<sup>14</sup>

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<sup>9</sup> R.C. 1547.306(B)(3).

<sup>10</sup> R.C. 1547.306(B)(4).

<sup>11</sup> R.C. 1547.306(B)(5).

<sup>12</sup> R.C. 1547.306(B)(6).

<sup>13</sup> R.C. 1547.306(B)(7).

<sup>14</sup> R.C.1547.306(C).

**Step 9:** The property owner conducts a public auction on the property where the vessel was left, at which the highest bidder is the purchaser of the vessel. The property owner may bid at the sale.<sup>15</sup>

**Step 10:** Immediately after the auction, the property owner executes an affidavit, in a form established by the Secretary of State and provided by the Clerk of Courts, affirming that all of the requirements to take title (**Steps 1-9**) have been met. The property owner must include all of the following information with the affidavit:

1. The length of time that the vessel was left on the owner's property without permission, as of the date of the auction sale;
2. The expenses incurred by the property owner in connection with the vessel as of the date of the auction sale, including the expenses of conducting the sale and, if the property is operated as a place of storage for charge, any accrued dockage or storage charges and any maintenance or repair charges, including parts and labor charges;
3. The name and address of the purchaser of the vessel at the auction sale and the amount of the purchaser's bid.<sup>16</sup>

**Step 11:** Once the highest bidder pays for the vessel, the property owner must present to the purchaser the affidavit, executed in accordance with **Step 10**, the written confirmation of value of the vessel (see **Step 2**), and the return receipts (see **Step 6**).<sup>17</sup>

**Step 12:** The purchaser presents the affidavit, written confirmation of value, and return receipt to the clerk of courts of the county in which the auction sale was held.<sup>18</sup>

**Step 13:** The clerk of courts must issue a certificate of title, free and clear of all liens, mortgages, and other encumbrances to the purchaser.<sup>19</sup> A purchaser in good faith obtains the vessel free of any rights of the owner or any lienholder despite noncompliance by the property owner with the requirements outlined in **Steps 1-11**.<sup>20</sup>

## **Disposition of money from the auction**

A property owner who sells a vessel in accordance with the requirements outlined in **Steps 1-11** must pay the money received from the purchaser of the vessel to the county treasurer, but may retain the maintenance or repair charges and dockage or storage charges. The county treasurer must deposit the net amount received into the county treasury. However, if the vessel's original owner or lienholder asserts a claim of the auction amount within one

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<sup>15</sup> R.C. 1547.306(C).

<sup>16</sup> R.C. 1547.306(D).

<sup>17</sup> R.C. 1547.306(E).

<sup>18</sup> R.C. 1547.307.

<sup>19</sup> R.C. 1547.307.

<sup>20</sup> R.C. 1547.309.

year after it is deposited in the treasury, that amount must be paid to the owner or to any lienholder whose lien was invalidated. If the owner or lienholder does not assert a claim for the amount within one year, the county auditor must transfer the unclaimed funds, or remainder of the unclaimed funds, to the county general fund.<sup>21</sup>

The property owner is liable for damages caused by the owner’s failure to comply with the requirements outlined in Steps 1-11 and the subsequent transfer of money to the county treasurer.<sup>22</sup>

For an illustration of the timeline for disposing of an abandoned vessel at public auction by a property owner, see Appendix B.

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## HISTORY

Action	Date
Introduced	04-18-19
Reported, H. Transportation and Public Safety	06-05-19

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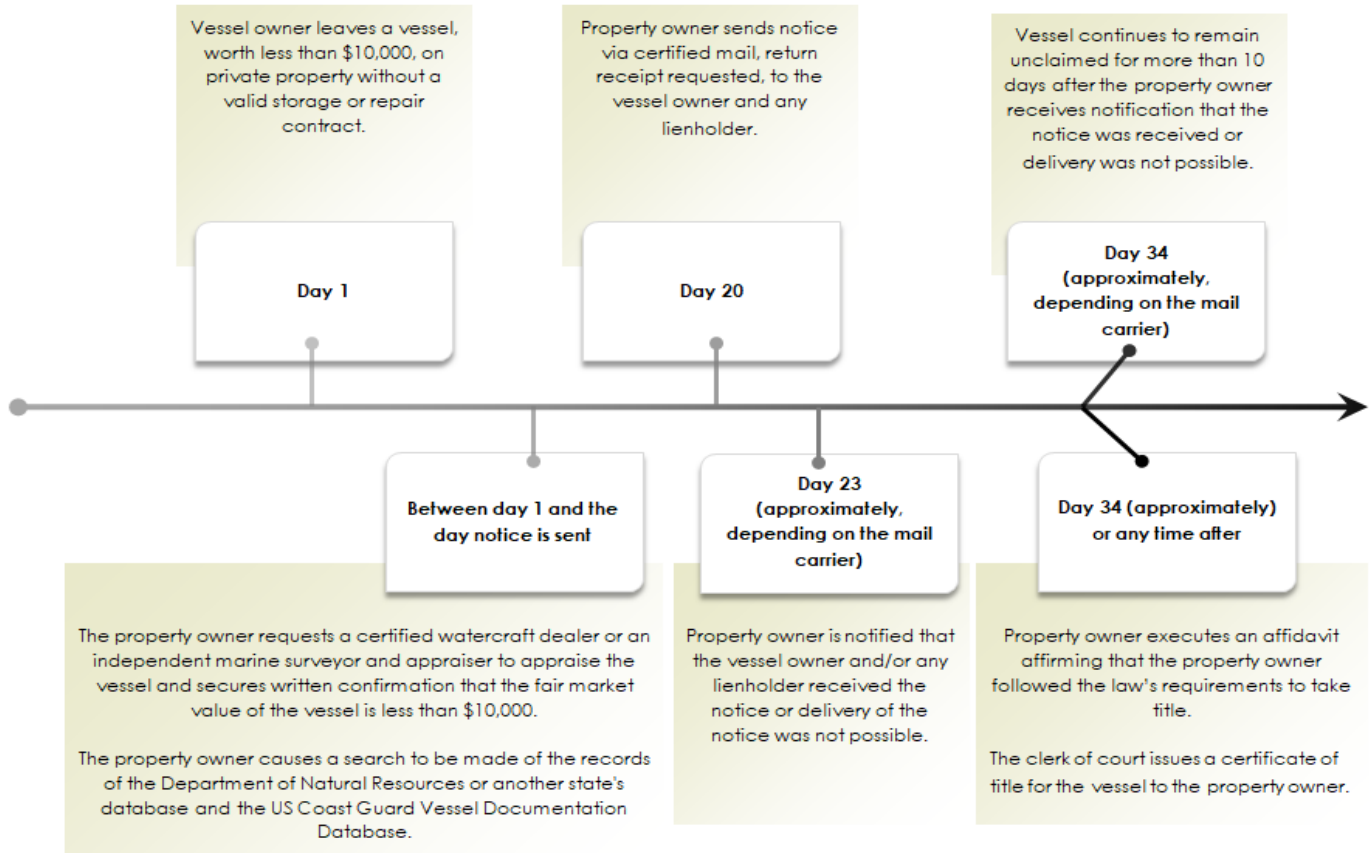
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<sup>21</sup> R.C. 1547.308.

<sup>22</sup> R.C. 1547.309.



## Appendix A: Timeline for taking title to an abandoned boat worth less than \$10,000



## Appendix B: Timeline for disposing of an abandoned vessel worth \$10,000 or more at auction

