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H.B. 211*
133rd General Assembly

Bill Analysis

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Version: As Reported by Senate Local Government, Public Safety, and Veterans Affairs

Primary Sponsor: Rep. Arndt

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SUMMARY

- Replaces the existing process by 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 a new process by which the property owner may directly 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.
- Requires the Chief of the Division of Parks and Watercraft to provide to a watercraft owner with a disclosure statement regarding the requirements and procedures established by the bill regarding vessels valued under \$10,000 when the owner registers or renews their watercraft.

* This analysis was prepared before the report of the Senate Local Government, Public Safety, and Veterans Affairs Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

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 on the owner’s property for 72 hours or more. The law enforcement agency then must order the vessel into storage and, if it is not claimed as required by law, dispose of it in any of the following ways:

1. To a marine salvage dealer;
2. To any other facility owned, operated, or under contract with the state or a political subdivision;
3. To a nonprofit organization; or
4. By sale at public auction by the law enforcement agency.¹

The second process allows the property owner to sell the 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 may 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 it 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 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.²

¹ 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.

² R.C. 4585.31 to 4585.34, repealed.

The bill retains the first process by which a law enforcement agency may dispose of a vessel (for vessels of all values). However, it replaces the second public auction process for vessels valued under \$10,000 with a new process that does not require the property owner to dispose of the vessel via public auction.

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 replaces the public auction process explained above with the following process:³

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.

³ 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.⁴

⁴ R.C. 1547.305(C)(1).

Impounding authority

The bill also allows a person who 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.⁵

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 the registration for 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.⁶

HISTORY

Action	Date
Introduced	04-18-19
Reported, H. Transportation & Public Safety	06-05-19
Passed House (91-0)	06-20-19
Reported, S. Local Government, Public Safety & Veterans Affairs	---

⁵ R.C. 1547.305(C)(2).

⁶ R.C. 1547.58.

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

