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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research and Drafting

Legislative Budget Office

H.B. 211
133rd General Assembly

Final Analysis

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Version: As Passed by the General Assembly

Primary Sponsor: Rep. Arndt

Effective date: *

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SUMMARY

- Replaces the prior process – by which a property owner could sell at auction a watercraft vessel or outboard motor ("vessel") valued at less than $10,000 and abandoned on the property owner's property – 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 is received; and
  - The property owner executes an affidavit with the clerk of courts affirming the proper requirements have been met to take title.
- Allows a property owner to impound an abandoned vessel left on the property owner's property and to initiate a civil action to recover the costs of storing or removing the vessel.
- Requires the Chief of the Division of Parks and Watercraft to provide a watercraft owner with a disclosure statement regarding the requirements and procedures established by the act regarding vessels valued at under $10,000 when the owner registers or renews the registration for their watercraft.

* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

DETAILED ANALYSIS

New process to dispose of an abandoned vessel

The act establishes a new process by which a property owner may dispose of and take title to a watercraft vessel or outboard motor ("vessel") valued at less than $10,000 that is abandoned on the owner's property. This process replaces a process under prior law that allowed the property owner to sell the vessel at a public auction. (The act retains a process through which the property owner may request law enforcement to dispose of the vessel.) Under the new process, the property owner may take title to the vessel as follows:[1]

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:

1. The Division of Parks and Watercraft in the Department of Natural Resources (DNR) 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 U.S. 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 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 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.

[1] 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 state the following information with the affidavit:

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

Impounding authority

The act 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

[2] R.C. 1547.305(C)(1).

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.[3]

Disclosure statement

The act requires the Chief of the Division of Parks and Watercraft, when an owner registers or renews the registration for the owner's watercraft, to provide the owner with a disclosure statement regarding the act's requirements and procedures. (Continuing law requires watercraft registration renewal every three years.) The disclosure statement must inform the owner that if the watercraft is left on the 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 act.[4]

Repeal of auction process

As indicated above, the act repeals a process in prior law that allowed a property owner to sell, at public auction, a vessel left on the property owner's property. The property owner could then recover maintenance or repair charges, including parts and labor charges and dockage or storage charges. This process applied only if the vessel was worth less than $10,000 and was left on the property owner's property for six months or more without the property owner's permission. The property owner was required to conduct the auction and was able to bid at the auction.

Prior to the auction, the property owner had to take certain actions, such as:

1. Searching for the vessel owner and any lienholders in DNR's database; and
2. Sending notice via certified mail to the vessel owner and lienholders, who then had to claim the vessel within 45 days.

If the vessel was not claimed within 45 days, it could be sold at public auction, provided the property owner properly advertised the auction and gave prospective purchasers reasonable time to inspect the vessel. After the auction, the property owner was required to 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.[5]

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[3] R.C. 1547.305(C)(2).

[4] R.C. 1547.58.

[5] R.C. 4585.31 to 4585.34, repealed.

The repealed process took a property owner at least 6½ months to dispose of an abandoned vessel. The new process allows the property owner to dispose of the vessel in approximately 34 days (see Appendix A for new process timeline).

Removal of a vessel by law enforcement

The act retains law that authorizes a property owner to make a complaint about an abandoned vessel to the appropriate law enforcement agency. In the complaint, the property owner must inform law enforcement that the vessel 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:

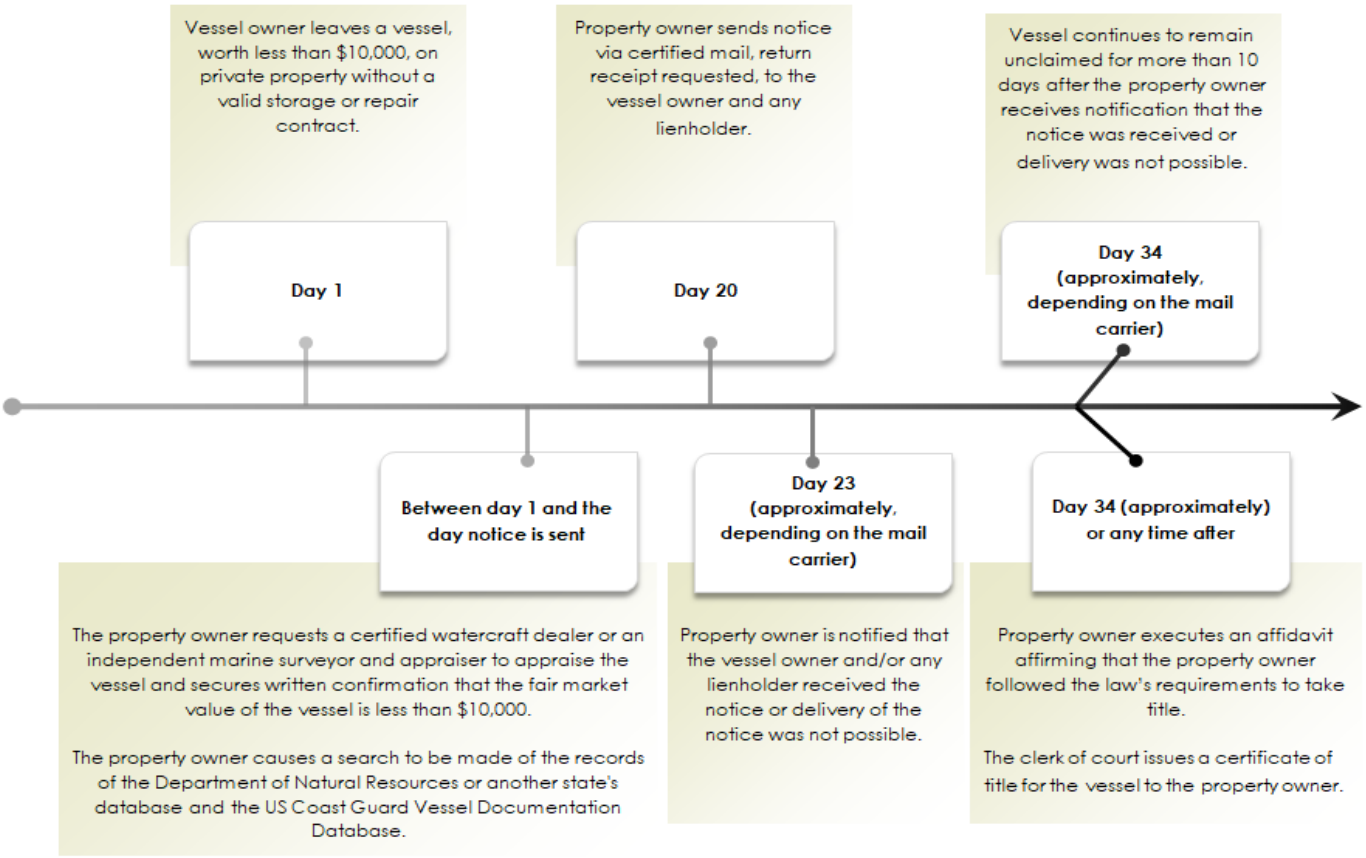
1. To a marine salvage dealer;
2. To any other facility owned, operated, or under contract with the state or a political subdivision;
3. To a nonprofit organization; or
4. By sale at public auction by the law enforcement agency.[6]

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 Gov't, Public Safety & Veterans Affairs	09-23-20
Passed Senate (32-0)	09-23-20
House concurred in Senate amendments (90-1)	09-23-20

[6] R.C. 1547.30 to 1547.302. Continuing 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.

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



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