



November 27, 2012

**Ohio Senate Judiciary Committee
House Bill 247 / Testimony of Dennis R. Hetzel, Executive Director, Ohio Newspaper Association**

Thank you Mr. Chairman and committee members for this opportunity to speak on behalf of the more than 200 members of the Ohio Newspaper Association in opposition to provisions of House Bill 247 regarding the public notice requirements that should be followed before the owners of a self-storage facility can auction the private property contained in those units for reason of non-payment.

This bill creates what I can best term an end run around an established and effective means of notifying the public of these auctions. In essence, the provision that begins at Line 1003 of the amended bill says that the existing notice requirement can be bypassed if another “commercially reasonable” method is followed. Most remarkably, that method succeeds by an undefined outcome: It is deemed satisfied as long as “three independent bidders” show up for the auction.

The current law seems to provide a clear, easy-to-follow path for the owners of self-storage facilities to bypass the court system and auction the personal property of others. The newspaper notice requirement is designed to ensure that all interested parties, including others who may have liens on this property, have a reasonable opportunity to be informed while making the auction process widely known to interested bidders. A requirement that allows the facility to skip this requirement in favor of an outcome-based definition is first of all cumbersome. What if three bidders don’t appear? Presumably, the process starts over. Or, this could be an invitation to insider bidding since there is no definition of what an “independent bidder” actually is.

A good policy regarding public notices should not allow a keenly interested party, in this case the self-storage facility owner, to have complete control of how, when and where the public is informed as well as the ability to control who sees the notice.

I also must debunk the flawed thinking that newspaper notices are somehow inconsequential. A 2011 study conducted by American Opinion Research for the ONA duplicated findings that occur around the country: The public wants and expects public notices to be in newspapers, and they are well read – far better read than they would be read at any other source, certainly more than they would be read in the ad hoc process this bill sets forth.

I have attached some highlights of that study. Specifically, 53 percent of Ohio adults said newspapers are the preferred source of public notices, followed by 32 percent who said the Internet and 19 percent in the mail. Over half of adults said they would read notices less often if they are published somewhere else. Ohio newspapers reach more than 8 in 10 adults in a typical week. At the same time,



most ONA members also upload their notices to their websites and our statewide website, PublicNoticesOhio.com, to provide additional readership at no additional charge. If you go by the study results, that covers just about everyone.

The current law requires advance notice to the contract owner but expands that notice through the newspaper. There could be many interested parties: an ex-spouse, a child, a significant relative, a pawn shop owner or any other party with a claim to the property in that facility. Another family member or friend might step forward to satisfy the claim. Valuable, confidential or sentimental items can be lost forever. Public auction notices in newspapers also provide due process for consumers and public oversight of these facilities.

There is another major problem here. This bill is completely inconsistent with the broad reform contained in last year's state budget regarding public notices, which preserved a core principle that there always shall be at least one full notice in print when there is a requirement for a public notice. There have been several bills, such as House Bill 95 on utility rate notices, which been crafted to remain consistent with the broad agreement.

In short, this bill is fixing something that is not broken, and we urge the Committee to adopt the amendment submitted by the Ohio Legal Dailies Coalition to revert the law to its unbroken state. This removes the new language added from lines 1003 to 1007 and restores the deleted language in lines 1020 to 1026 of the amended bill.

I thank the committee for its time, and I will be happy to respond to any questions that members may have.