

ISS Inside Self-Storage, Ohio Proposal Could Eliminate Newspaper Public Notice Requirement for Self-Storage Auction (12.10.12)

The Ohio State Judiciary Committee is considering a proposal that would enable self-storage operators to place public-notice announcements for lien sales in commercial outlets other than a local newspaper. If passed, self-storage businesses could potentially save money by publicizing auctions through less expensive channels.

Currently, self-storage operators in Ohio must publish auction notices once a week for two consecutive weeks in a newspaper of general circulation in the county where their facility is located. While the time and frequency of the notice would remain the same under the law, the new provision would allow operators the option of placing notification in a “commercially reasonable manner” other than the newspaper.

The term “commercially reasonable” would be satisfied as long as “at least three independent bidders attend the sale at the time and place advertised,” according to new language added to House Bill 247, a bill dealing with self-storage lien-law procedures that passed the House last December.

The provision would also remove the current requirement for an auction advertisement to be posted at least 10 days before the sale date in at least six “conspicuous places” in the facility’s neighborhood if there is no newspaper of general circulation in that county.

The proposal has sparked controversy among newspapers in the state, which oppose the change. Although publishers acknowledge they profit from the newspaper public-notice requirement, they also argue visibility through a newspaper benefits the public. “A ‘commercially reasonable’ notice option of such loose and vague definition is no substitute for the reach of printed public notices,” wrote The Plain Dealer in a recent editorial.

Other newspapers have also published editorials against the provision, which is opposed by the Ohio Newspaper Association. The association would support reducing the number of required ads to one if the committee drops the “commercially reasonable” option from the provision.

The national Self-Storage Association (SSA) supports the current proposal, which was sponsored by the Ohio Self Storage Association, an SSA affiliate. The SSA recently submitted a response letter from President Mike Scanlon to several newspapers.

“A self-storage facility operator can still use a newspaper legal ad if they like throwing money at a medium where the prices increase while the circulation decreases,” Scanlon wrote. “Self-storage facilities are small-business enterprises, and in the current economy, Ohio law requires them to waste thousands of dollars each year to satisfy this outdated legal notice requirement.”

The SSA said it expects the committee to make a ruling before the end of the month.