

## **1923.12 Eviction of resident or resident's estate from manufactured home park - notice to remove home or vehicle.**

(A) If a resident or a resident's estate has been evicted from a manufactured home park pursuant to a judgment entered under section 1923.09 or 1923.11 of the Revised Code and if the resident or estate has abandoned or otherwise left unoccupied the resident's manufactured home, mobile home, or recreational vehicle on the residential premises of the manufactured home park for a period of three days following the entry of the judgment, the operator of the manufactured home park may provide to the titled owner of the home or vehicle a written notice to remove the home or vehicle from the manufactured home park within fourteen days from the date of the delivery of the notice. The park operator shall deliver or cause the delivery of the notice by personal delivery to the owner or by ordinary mail sent to the last known address of the owner. Except as provided in divisions (D) and (E) of this section, if the owner of the manufactured home, mobile home, or recreational vehicle does not remove it or cause it to be removed from the manufactured home park within fourteen days from the date of the delivery of the notice, the park operator may follow the procedures of division (B) of section 1923.13 and division (B) of section 1923.14 of the Revised Code to permit the removal of the home or vehicle from the manufactured home park, and the potential sale, destruction, or transfer of ownership of the home or vehicle.

(B) Every notice provided to the titled owner of a manufactured home, mobile home, or recreational vehicle under this section shall contain the following language printed in a conspicuous manner: "You are being asked to remove your manufactured home, mobile home, or recreational vehicle from the residential premises of ....., a manufactured home park, in accordance with a judgment of eviction entered in ..... court on ..... against ....., If the manufactured home, mobile home, or recreational vehicle is not removed from the manufactured home park within fourteen days from the date of delivery of this notice, the home or vehicle may be sold or destroyed, or its title may be transferred to ....., pursuant to division (B) of both sections 1923.13 and 1923.14 of the Revised Code. If you are in doubt regarding your legal rights, it is recommended that you seek legal assistance."

(C) Before requesting a writ of execution under division (B) of section 1923.13 of the Revised Code, the park operator shall conduct or cause to be conducted a search of the appropriate public records that relate to the manufactured home, mobile home, or recreational vehicle, and make or cause to be made reasonably diligent inquiries, for the purpose of identifying any persons who have an outstanding right, title, or interest in the home or vehicle. If the search or inquiries reveal any person who has an outstanding right, title, or interest in the manufactured home, mobile home, or recreational vehicle, the park operator shall list the name and last known address of each person with a right, title, or interest of that nature on its request for the writ of execution. In addition, if personal property has been abandoned on the residential premises and the park operator has knowledge of any person who has an outstanding right, title, or interest in any of the personal property, the park operator shall list the item or items of personal property and the name and last known address of each person with the outstanding right, title, or interest on the request for the writ of execution. The park operator also shall certify on the request that the park operator provided the written notice required by this section. The clerk of the municipal court, county court, or court of common pleas may require the park operator to pay an advance deposit sufficient to secure payment of the appraisal of the manufactured home, mobile home, or recreational vehicle and the advertisement of the sale of the home or vehicle.

(D) When a deceased resident or a resident's estate has been evicted from a manufactured home park pursuant to a judgment entered under section 1923.09 or 1923.11 of the Revised Code, the removal from the park and potential sale, destruction, or transfer of ownership of the

resident's manufactured home, mobile home, or recreational vehicle and any personal property abandoned on the residential premises shall be conducted in the manner prescribed by the probate court in which letters testamentary or of administration have been granted for the estate in accordance with Title XXI of the Revised Code. The park operator may store the resident's manufactured home, mobile home, or recreational vehicle at a storage facility or at another location within the manufactured home park during the administration of the estate. The park operator shall notify the executor or administrator of the resident's estate where the manufactured home, mobile home, or recreational vehicle will be stored during the administration of the estate. The costs for the removal and storage of the manufactured home, mobile home, or recreational vehicle shall be a claim against the resident's estate without further presentation of the claim to the executor or administrator.

(E)(1) When the resident who has been evicted from a manufactured home park pursuant to a judgment entered under section 1923.09 or 1923.11 of the Revised Code is the titled owner of a manufactured home, mobile home, or recreational vehicle and is or becomes deceased prior to the removal of the home or vehicle from the manufactured home park, and no probate court has granted letters testamentary or of administration with respect to the resident's estate, the park operator may store the home or vehicle at a storage facility or at another location within the manufactured home park before and after a probate court grants letters testamentary or of administration with respect to the resident's estate pursuant to Title XXI of the Revised Code.

(2) If no probate court grants letters testamentary or of administration with respect to the resident's estate within one year of the date of the eviction of the resident from the manufactured home park pursuant to a judgment entered under section 1923.09 or 1923.11 of the Revised Code, the park operator may follow the procedures of division (B) of section 1923.13 and division (B) of section 1923.14 of the Revised Code to permit the removal of the manufactured home, mobile home, or recreational vehicle from the park and potential sale, destruction, or transfer of ownership of the home or vehicle.

(3) If a probate court grants letters testamentary or of administration with respect to the resident's estate within one year of the date of the eviction of the resident from the park, the removal of the manufactured home, mobile home, or recreational vehicle from the park and potential sale, destruction, or transfer of ownership of the home or vehicle shall be conducted pursuant to division (D) of this section.

Effective Date: 04-03-2003; 2007 HB56 10-18-2007

## **1923.14 Writ of execution enforced.**

(A) Except as otherwise provided in this section, within ten days after receiving a writ of execution described in division (A) or (B) of section 1923.13 of the Revised Code, the sheriff, police officer, constable, or bailiff shall execute it by restoring the plaintiff to the possession of the premises, and shall levy and collect the costs and make return, as upon other executions. If an appeal from the judgment of restitution is filed and if, following the filing of the appeal, a stay of execution is obtained and any required bond is filed with the court of common pleas, municipal court, or county court, the judge of that court immediately shall issue an order to the sheriff, police officer, constable, or bailiff commanding the delay of all further proceedings upon the execution. If the premises have been restored to the plaintiff, the sheriff, police officer, constable, or bailiff shall forthwith place the defendant in possession of them, and return the writ with the sheriff's, police officer's, constable's, or bailiff's proceedings and the costs taxed on it.

(B)(1) After a court of common pleas, municipal court, or county court issues a writ of execution described in division (B) of section 1923.13 of the Revised Code, the clerk of the court shall send by regular mail, to the last known address of the titled owner of the manufactured home, mobile home, or recreational vehicle that is the subject of the writ and to the last known address of each other person who is listed on the writ as having any outstanding right, title, or interest in the home, vehicle, or personal property and to the auditor and treasurer of the county in which the court is located, a written notice that the home or vehicle potentially may be sold, destroyed, or have its title transferred under the circumstances described in division (B)(3) or (4) of this section.

(2) Except as otherwise provided in this division, after receiving a writ of execution described in division (B) of section 1923.13 of the Revised Code, and after causing the defendant to be removed from the residential premises of the manufactured home park, if necessary, in accordance with the writ, the sheriff, police officer, constable, or bailiff may cause the manufactured home, mobile home, or recreational vehicle that is the subject of the writ, and all personal property on the residential premises, at the sheriff's, police officer's, constable's, or bailiff's option, either to be removed from the manufactured home park and, if necessary, moved to a storage facility of the sheriff's, police officer's, constable's, or bailiff's choice, or to be retained at their current location on the residential premises, until they are claimed by the defendant or they are disposed of in a manner authorized by division (B)(3), (4), or (6) of this section or by another section of the Revised Code. The sheriff, police officer, constable, or bailiff shall not cause the manufactured home, mobile home, or recreational vehicle that is the subject of the writ, or the personal property, to be removed from the manufactured home park or moved to a storage facility if the holder of any outstanding lien, right, title, or interest in the home or vehicle, other than the titled owner of the home or vehicle, meets the conditions set forth in division (B)(6) or (7) of this section.

The sheriff, police officer, constable, or bailiff who removes the manufactured home, mobile home, or recreational vehicle, or the abandoned personal property, from the residential premises shall be immune from civil liability pursuant to section 2744.03 of the Revised Code for any damage caused to the home, vehicle, or any personal property during the removal. The park operator shall not be liable for any damage caused by the park operator's removal of the manufactured home, mobile home, or recreational vehicle or the removal of the personal property from the residential premises, or for any damage to the home, vehicle, or personal property during the time the home, vehicle, or property remains abandoned or stored in the manufactured home park, unless the damage is the result of acts that the park operator or the park operator's agents or employees performed with malicious purpose, in bad faith, or in a wanton or reckless manner. The reasonable costs for a removal of the manufactured home, mobile home, or recreational vehicle and personal property and, as applicable, the reasonable

costs for its storage shall constitute a lien upon the home or vehicle payable by the titled owner of the home or vehicle or payable pursuant to division (B)(3) of this section.

(3) Except as provided in divisions (B)(4), (5), and (6) of this section and division (D) of section 1923.12 of the Revised Code, within sixty days after receiving a writ of execution described in division (B) of section 1923.13 of the Revised Code, the sheriff, police officer, constable, or bailiff shall commence proceedings for the sale of the manufactured home, mobile home, or recreational vehicle that is the subject of the writ, and the abandoned personal property on the residential premises, if the home or vehicle is determined to be abandoned in accordance with the procedures for the sale of goods on execution under Chapter 2329. of the Revised Code. In addition to all notices required to be given under section 2329.13 of the Revised Code, the sheriff, police officer, constable, or bailiff shall serve at their respective last known addresses a written notice of the date, time, and place of the sale upon all persons who are listed on the writ of execution as having any outstanding right, title, or interest in the abandoned manufactured home, mobile home, or recreational vehicle and the personal property and shall provide written notice to the auditor and the treasurer of the county in which the court issuing the writ is located.

Unless the proceedings are governed by division (D) of section 1923.12 of the Revised Code, notwithstanding any statutory provision to the contrary, including, but not limited to, section 2329.66 of the Revised Code, there shall be no stay of execution or exemption from levy or sale on execution available to the titled owner of the abandoned manufactured home, mobile home, or recreational vehicle in relation to a sale under this division. Except as otherwise provided in sections 2113.031, 2117.25, and 5111.11 of the Revised Code in a case involving a deceased resident or resident's estate, the sheriff, police officer, constable, or bailiff shall distribute the proceeds from the sale of an abandoned manufactured home, mobile home, or recreational vehicle and any personal property under this division in the following manner:

(a) The sheriff, police officer, constable, or bailiff shall first pay the costs for any moving of and any storage outside the manufactured home park of the home or vehicle and any personal property pursuant to division (B)(2) of this section, the costs of the sale, including reimbursing the park operator for the deposit that the park operator paid to the clerk of court under division (C) of section 1923.12 of the Revised Code, and any unpaid court costs assessed against the defendant in the underlying action.

(b) Following the payment required by division (B)(3)(a) of this section, the sheriff, police officer, constable, or bailiff shall pay all outstanding tax liens on the home or vehicle.

(c) Following the payment required by division (B)(3)(b) of this section, the sheriff, police officer, constable, or bailiff shall pay all other outstanding security interests, liens, or encumbrances on the home or vehicle by priority of filing or other priority.

(d) Following the payment required by division (B)(3)(c) of this section, the sheriff, police officer, constable, or bailiff shall pay any outstanding monetary judgment rendered under section 1923.09 or 1923.11 of the Revised Code in favor of the plaintiff and any costs associated with retaining the home or vehicle prior to the sale at its location on the residential premises within the manufactured home park pursuant to division (B)(2) of this section.

(e) After complying with divisions (B)(3)(a) to (d) of this section, the sheriff, police officer, constable, or bailiff shall report any remaining money as unclaimed funds pursuant to Chapter 169. of the Revised Code.

Upon the return of any writ of execution for the satisfaction of which an abandoned manufactured home, mobile home, or recreational vehicle has been sold under this division, on

careful examination of the proceedings of the sheriff, police officer, constable, or bailiff conducting the sale, if the court that issued the writ finds that the sale was made, in all respects, in conformity with the relevant provisions of Chapter 2329. of the Revised Code and with this division, it shall direct the clerk of the court to make an entry on the journal that the court is satisfied with the legality of the sale and the court shall direct the clerk of the court of common pleas of the county in which the writ was issued to issue a certificate of title, free and clear of all security interests, liens, and encumbrances, to the purchaser of the home or vehicle. The clerk of the court of common pleas shall issue the new certificate of title to the purchaser of the home or vehicle regardless of whether the writ was issued by the court of common pleas or another court duly authorized to issue the writ. If the manufactured home, mobile home, or recreational vehicle sold under this division is located in a manufactured home park, the purchaser of the home or vehicle shall have no right to maintain the home or vehicle in the manufactured home park without the park operator's consent and the sheriff, police officer, constable, or bailiff conducting the sale shall notify all prospective purchasers of this fact prior to the commencement of the sale.

If, after it is offered for sale on two occasions under this division, the abandoned manufactured home, mobile home, or recreational vehicle cannot be sold due to a want of bidders, the sheriff, police officer, constable, or bailiff shall present the writ of execution unsatisfied to the clerk of the court of common pleas of the county in which the writ was issued for the issuance by the clerk in the manner prescribed in section 4505.10 of the Revised Code of a certificate of title transferring the title of the home or vehicle to the plaintiff, free and clear of all security interests, liens, and encumbrances. The clerk of the court of common pleas shall issue the new certificate of title transferring the title of the manufactured home, mobile home, or recreational vehicle to the plaintiff regardless of whether the writ was issued by the court of common pleas or another court duly authorized to issue the writ. If any taxes are owed on the home or vehicle at this time, the county auditor shall remove the delinquent taxes from the manufactured home tax list and the delinquent manufactured home tax list and remit any penalties for late payment of manufactured home taxes. Acceptance of the certificate of title by the plaintiff terminates all further proceedings under this section.

(4) Except as provided in division (B)(5) or (6) of this section and division (D) of section 1923.12 of the Revised Code, within sixty days after receiving a writ of execution described in division (B) of section 1923.13 of the Revised Code, if the manufactured home, mobile home, or recreational vehicle is determined to be abandoned and to have a value of less than three thousand dollars, the sheriff, police officer, constable, or bailiff shall serve at their respective last known addresses a written notice of potential action as described in this division upon all persons who are listed on the writ as having any outstanding right, title, or interest in the home or vehicle. This notice shall be in addition to all notices required to be given under section 2329.13 of the Revised Code. Subject to the fulfillment of these notice requirements, the sheriff, police officer, constable, or bailiff shall take one of the following actions with respect to the abandoned manufactured home, mobile home, or recreational vehicle:

(a) Cause its destruction if there is no person having an outstanding right, title, or interest in the home or vehicle, other than the titled owner of the home or vehicle;

(b) Proceed with its sale under division (B)(3) of this section;

(c) If there is no person having an outstanding right, title, or interest in the home or vehicle other than the titled owner of the home or vehicle, or if there is an outstanding right, title, or interest in the home or vehicle and the lienholder consents in writing, present the writ of execution to the clerk of the court of common pleas of the county in which the writ was issued for the issuance by the clerk in the manner prescribed in section 4505.10 of the Revised Code of a certificate of title transferring the title of the home or vehicle to the plaintiff, free and clear of all security interests, liens, and encumbrances. The clerk of the court of common pleas shall

issue the new certificate of title transferring the title of the home or vehicle regardless of whether the writ was issued by the court of common pleas or another court duly authorized to issue the writ. If any taxes are owed on the home or vehicle at this time, the county auditor shall remove the delinquent taxes from the manufactured home tax list and the delinquent manufactured home tax list and remit any penalties for late payment of manufactured home taxes. Acceptance of the certificate of title by the plaintiff terminates all further proceedings under this section.

(5) At any time prior to the issuance of the writ of execution described in division (B) of section 1923.13 of the Revised Code, the titled owner of the manufactured home, mobile home, or recreational vehicle that would be the subject of the writ may remove the abandoned home or vehicle from the manufactured home park or other place of storage upon payment to the county auditor of all outstanding tax liens on the home or vehicle and, unless the owner is indigent, payment to the clerk of court of all unpaid court costs assessed against the defendant in the underlying action. After the issuance of the writ of execution, the titled owner of the home or vehicle may remove the abandoned home or vehicle from the manufactured home park or other place of storage at any time up to the day before the scheduled sale, destruction, or transfer of the home or vehicle pursuant to division (B)(3) or (4) of this section upon payment of all of the following:

(a) All costs for moving and storage of the home or vehicle pursuant to division (B)(2) of this section and all costs incurred by the sheriff, police officer, constable, or bailiff up to and including the date of the removal of the home or vehicle;

(b) All outstanding tax liens on the home or vehicle;

(c) Unless the owner is indigent, all unpaid court costs assessed against the defendant in the underlying action.

(6) At any time after the issuance of the writ of execution described in division (B) of section 1923.13 of the Revised Code, the holder of any outstanding lien, right, title, or interest in the manufactured home, mobile home, or recreational vehicle, other than the titled owner of the home or vehicle, may stop the sheriff, police officer, constable, or bailiff from proceeding with the sale under this division by doing both of the following:

(a) Commencing a proceeding to repossess the home or vehicle pursuant to Chapters 1309. and 1317. of the Revised Code;

(b) Paying to the park operator all monthly rental payments for the lot on which the home or vehicle is located from the time of the issuance of the writ of execution until the time that the home or vehicle is sold pursuant to Chapters 1309. and 1317. of the Revised Code.

(7)(a) At any time prior to the day before the scheduled sale of the property pursuant to division (B) (3) of this section, the defendant may remove any personal property of the defendant from the abandoned home or vehicle or other place of storage.

(b) If personal property owned by a person other than the defendant is abandoned on the residential premises and has not previously been removed, the owner of the personal property may remove the personal property from the abandoned home or vehicle or other place of storage up to the day before the scheduled sale of the property pursuant to division (B)(3) of this section upon presentation of proof of ownership of the property that is satisfactory to the sheriff, police officer, constable, or bailiff conducting the sale.

## 1923.13 Writ of execution.

(A) When a judgment of restitution is entered by a court in an action under this chapter, unless the plaintiff or the plaintiff's agent or attorney proceeds under division (B) of this section, at the request of the plaintiff or the plaintiff's agent or attorney, that court shall issue a writ of execution on the judgment, in the following form, as near as practicable:

"The state of Ohio, ..... county: To any constable or police officer of ..... township, city, or village; or To the sheriff of ..... county; or To any authorized bailiff of the ..... (name of court):

Whereas, in a certain action for the forcible entry and detention (or the forcible detention, as the case may be), of the following described premises, to wit: ....., lately tried before this court, wherein ..... was plaintiff, and ..... was defendant, ..... judgment was rendered on the ..... day of ....., ....., that the plaintiff have restitution of those premises; and also that the plaintiff recover costs in the sum of ....., You therefore are hereby commanded to cause the defendant to be forthwith removed from those premises, and the plaintiff to have restitution of them; also, that you levy of the goods and chattels of the defendant, and make the costs previously mentioned and all accruing costs, and of this writ make legal service and due return.

Witness my hand, this ..... day of ....., ..... Judge, ..... (Name of court)"

(B) When a judgment of restitution is entered by a court in any action under this chapter against a manufactured home park resident or the estate of a manufactured home park resident, at the request of the plaintiff or the plaintiff's agent or attorney, that court shall issue a writ of execution on the judgment, in the following form, as near as practicable:

"The state of Ohio, ..... county; To any constable or police officer of ..... township, city, or village; or To the sheriff of ..... county; or To any authorized bailiff of the ..... (name of court):

Whereas, in a certain action for eviction of a resident or a resident's estate from the following described residential premises of a manufactured home park on which the following described manufactured home, mobile home, or recreational vehicle is located, to wit: ....., lately tried before this court, wherein ..... was plaintiff, and ..... was defendant, ..... judgment was rendered on the ..... day of ....., ....., that the plaintiff have restitution of the premises and also that the plaintiff recover costs in the sum of ....., You therefore are hereby authorized to cause the defendant to be removed from the residential premises, if necessary. Also, you are to levy of the goods and chattels of the defendant, and make the costs previously mentioned and all accruing costs, and of this writ make legal service and due return.

Further, you are authorized to cause the manufactured home, mobile home, or recreational vehicle, and all personal property on the residential premises, to be, at your option, either (1) removed from the manufactured home park and, if necessary, moved to a storage facility of your choice, or (2) retained at their current location on the residential premises, until they are disposed of in a manner authorized by this writ or the law of this state.

If the manufactured home, mobile home, or recreational vehicle has been abandoned by the defendant and the requirements of section 1923.12 of the Revised Code have been satisfied, you are hereby authorized to cause the sale of the home or vehicle and personal property in the home or vehicle in accordance with division (B)(3) of section 1923.14 of the Revised Code. A

search of appropriate public records or other reasonably diligent inquiries reveals the following persons, whose last known addresses are listed next to their names, may continue to have an outstanding right, title, or interest in the home or vehicle: ..... In addition, the following persons, whose last known addresses are listed next to their names, may continue to have an outstanding right, title, or interest in certain personal property left in the home and listed next to their names: ..... If you are unable to sell the manufactured home, mobile home, or recreational vehicle due to a want of bidders, after it is offered for sale on two occasions, you are hereby commanded to cause the presentation of this writ to a clerk of the court of common pleas for the issuance of a certificate of title transferring the title of the home or vehicle to the plaintiff, free and clear of all security interests, liens, and encumbrances, in accordance with division (B)(3) of section 1923.14 of the Revised Code.

If the manufactured home, mobile home, or recreational vehicle has been so abandoned and has a value of less than three thousand dollars and if the requirements of section 1923.12 of the Revised Code have been satisfied, you are hereby authorized either to cause the sale or destruction of the home or vehicle, or to cause the presentation of this writ to a clerk of the court of common pleas for the issuance of a certificate of title transferring the title of the home or vehicle to the plaintiff, free and clear of all security interests, liens, and encumbrances, in accordance with division (B)(4) of section 1923.14 of the Revised Code.

Upon this writ's presentation by the levying officer to a clerk of the court of common pleas under the circumstances described in either of the two preceding paragraphs and in accordance with division (B)(3) or (4) of section 1923.14 of the Revised Code, as applicable, the clerk is hereby commanded to issue a certificate of title transferring the title of the manufactured home, mobile home, or recreational vehicle to the plaintiff, free and clear of all security interests, liens, and encumbrances, in the manner prescribed in section 4505.10 of the Revised Code.

Witness my hand, this ..... day of ....., ....., ..... Judge, ..... (Name of court)."

Effective Date: 04-03-2003; 2007 HB56 10-18-2007



## DISPOSITION OF MANUFACTURED HOME FOLLOWING EVICTION JUDGMENT

### Duty Room Checklist

#### Home is worth less than three thousand dollars (\$3,000.00)

- Park operator must obtain an eviction judgment, even if the home is unoccupied;
- Park operator must conduct a title search of title to the mobile home. If a lienholder is listed, the lienholder must be sent a Fourteen (14) Day Notice that title transfer proceedings have commenced in order to collect their collateral or make arrangements for the home;
- Park Operator must present a **Writ of Execution to the Duty Judge** with the following documents attached:
  - an affidavit attesting that the mobile home is less than \$3,000.00 in value.
  - a copy of the Fourteen Day Notice to Lienholder
  - a copy of the eviction judgment.

Once the Writ is signed by the court, BMV can make the title transfer. (The County Auditor also has certain, separate requirements related to taxes transfers.)

#### Homes is worth in excess of three thousand dollars, (\$3,000.00)

##### Public Sale Required (R.C. 1923.12 & R.C. 1923.14)

- Park operator must obtain an eviction judgment, even if the home is unoccupied;
- Park operator must conduct a title search of title to the mobile home. If a lienholder is listed, the lienholder must be sent a Fourteen (14) Day Notice that title transfer proceedings have commenced in order to collect their collateral or make arrangements for the home;
- Park Operator must present a **Writ of Execution to the Duty Judge** with the following documents attached:
  - an affidavit attesting that the mobile home is greater than \$3,000.00 in value.
  - a copy of the Fourteen Day Notice to Lienholder
  - a copy of the eviction judgment.

