

As Introduced

**127th General Assembly
Regular Session
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H. B. No. 59

Representative Combs

Cosponsors: Representatives Peterson, Hughes, Lundy, Harwood

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A B I L L

To amend sections 319.202, 319.302, 323.01, and 1
323.99 and to enact sections 323.16, 323.161, 2
323.162, 323.163, 323.164, and 323.165 of the 3
Revised Code to defer increases in taxes on 4
residences owned and occupied by individuals age 5
65 or older. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 319.202, 319.302, 323.01, and 323.99 7
be amended and sections 323.16, 323.161, 323.162, 323.163, 8
323.164, and 323.165 of the Revised Code be enacted to read as 9
follows: 10

Sec. 319.202. Before the county auditor indorses any real 11
property conveyance or manufactured or mobile home conveyance 12
presented to the auditor pursuant to section 319.20 of the Revised 13
Code or registers any manufactured or mobile home conveyance 14
pursuant to section 4503.061 of the Revised Code, the grantee or 15
the grantee's representative shall submit in triplicate a 16
statement, prescribed by the tax commissioner, and other 17
information as the county auditor may require, declaring the value 18
of real property or manufactured or mobile home conveyed, except 19

that when the transfer is exempt under division (F)(3) of section 20
319.54 of the Revised Code only a statement of the reason for the 21
exemption shall be required. ~~Each statement submitted under this 22~~
~~section shall contain the information required under divisions (A) 23~~
~~and (B) of this section. 24~~

(A) Each statement submitted under this section shall either: 25

(1) Contain an affirmation by the grantee that the grantor 26
has been asked by the grantee or the grantee's representative 27
whether to the best of the grantor's knowledge either the 28
preceding or the current year's taxes on the real property or the 29
current or following year's taxes on the manufactured or mobile 30
home conveyed will be reduced under division (A) of section 31
323.152 or under section 4503.065 of the Revised Code and that the 32
grantor indicated that to the best of the grantor's knowledge the 33
taxes will not be so reduced; or 34

(2) Be accompanied by a sworn or affirmed instrument stating: 35

(a) To the best of the grantor's knowledge the real property 36
or the manufactured or mobile home that is the subject of the 37
conveyance is eligible for and will receive a reduction in taxes 38
for or payable in the current year under division (A) of section 39
323.152 or under section 4503.065 of the Revised Code and that the 40
reduction or reductions will be reflected in the grantee's taxes; 41

(b) The estimated amount of such reductions that will be 42
reflected in the grantee's taxes; 43

(c) That the grantor and the grantee have considered and 44
accounted for the total estimated amount of such reductions to the 45
satisfaction of both the grantee and the grantor. The auditor 46
shall indorse the instrument, return it to the grantee or the 47
grantee's representative, and provide a copy of the indorsed 48
instrument to the grantor or the grantor's representative. 49

(B) ~~Each~~ For the conveyance of real property, each statement 50

submitted under this section shall either: 51

(1) Contain an affirmation by the grantee that the grantor 52
has been asked by the grantee or the grantee's representative 53
whether to the best of the grantor's knowledge the real property 54
conveyed qualified for the current agricultural use valuation 55
under section 5713.30 of the Revised Code either for the preceding 56
or the current year and that the grantor indicated that to the 57
best of the grantor's knowledge the property conveyed was not so 58
qualified; or 59

(2) Be accompanied by a sworn or affirmed instrument stating: 60

(a) ~~To~~ That, to the best of the grantor's knowledge, the real 61
property conveyed was qualified for the current agricultural use 62
valuation under section 5713.30 of the Revised Code either for the 63
preceding or the current year; 64

(b) To the extent that the property will not continue to 65
qualify for the current agricultural use valuation either for the 66
current or the succeeding year, that the property will be subject 67
to a recoupment charge equal to the tax savings in accordance with 68
section 5713.34 of the Revised Code; 69

(c) That the grantor and the grantee have considered and 70
accounted for the total estimated amount of such recoupment, if 71
any, to the satisfaction of both the grantee and the grantor. The 72
auditor shall indorse the instrument, forward it to the grantee or 73
the grantee's representative, and provide a copy of the indorsed 74
instrument to the grantor or the grantor's representative. 75

(C) For the conveyance of real property or a manufactured or 76
mobile home presented to the auditor under section 319.20 of the 77
Revised Code, each statement submitted under this section shall 78
either: 79

(1) Contain an affirmation by the grantee that the grantor 80
has been asked by the grantee or the grantee's representative 81

whether, to the best of the grantor's knowledge, payment of taxes 82
charged against the real property conveyed for the current or any 83
preceding year has been deferred under section 323.161 of the 84
Revised Code and whether, to the best of the grantor's knowledge, 85
those taxes had been recouped pursuant to section 323.164 or 86
323.165 of the Revised Code at the time of the conveyance, and 87
that the grantor indicated that payment of taxes was not so 88
deferred, or was deferred but the taxes had been so recouped; or 89

(2) Be accompanied by a sworn or affirmed instrument stating: 90

(a) That, to the best of the grantor's knowledge, payment of 91
taxes charged against the real property conveyed for the current 92
or any preceding year has been deferred under section 323.161 of 93
the Revised Code, those taxes had not been recouped pursuant to 94
section 323.164 or 323.165 of the Revised Code, and the property 95
is subject to a recoupment charge under section 323.164 of the 96
Revised Code; 97

(b) That the grantor and the grantee have considered and 98
accounted for the total estimated amount of that recoupment, if 99
any, to the satisfaction of both the grantee and the grantor. 100

The county auditor shall endorse the instrument, forward it 101
to the grantee or the grantee's representative, and provide a copy 102
of the indorsed instrument to the grantor or the grantor's 103
representative. 104

(D) The grantor shall pay the fee required by division (F)(3) 105
of section 319.54 of the Revised Code; and, in the event the board 106
of county commissioners of the county has levied a real property 107
or a manufactured home transfer tax pursuant to Chapter 322. of 108
the Revised Code, the amount required by the real property or 109
manufactured home transfer tax so levied. If the conveyance is 110
exempt from the fee provided for in division (F)(3) of section 111
319.54 of the Revised Code and the tax, if any, levied pursuant to 112

Chapter 322. of the Revised Code, the reason for such exemption 113
shall be shown on the statement. "Value" means, in the case of any 114
deed or certificate of title not a gift in whole or part, the 115
amount of the full consideration therefor, paid or to be paid for 116
the real estate or manufactured or mobile home described in the 117
deed or title, including the amount of any mortgage or vendor's 118
lien thereon. If property sold under a land installment contract 119
is conveyed by the seller under such contract to a third party and 120
the contract has been of record at least twelve months prior to 121
the date of conveyance, "value" means the unpaid balance owed to 122
the seller under the contract at the time of the conveyance, but 123
the statement shall set forth the amount paid under such contract 124
prior to the date of conveyance. In the case of a gift in whole or 125
part, "value" means the estimated price the real estate or 126
manufactured or mobile home described in the deed or certificate 127
of title would bring in the open market and under the then 128
existing and prevailing market conditions in a sale between a 129
willing seller and a willing buyer, both conversant with the 130
property and with prevailing general price levels. No person shall 131
willfully falsify the value of property conveyed. 132

~~(D)~~(E) The auditor shall indorse each conveyance on its face 133
to indicate the amount of the conveyance fee and compliance with 134
this section. The auditor shall retain the original copy of the 135
statement of value, forward to the tax commissioner one copy on 136
which shall be noted the most recent assessed value of the 137
property, and furnish one copy to the grantee or the grantee's 138
representative. 139

~~(E)~~(F) In order to achieve uniform administration and 140
collection of the transfer fee required by division (F)(3) of 141
section 319.54 of the Revised Code, the tax commissioner shall 142
adopt and promulgate rules for the administration and enforcement 143
of the levy and collection of such fee. 144

Sec. 319.302. (A)(1) Real property that is not intended 145
primarily for use in a business activity shall qualify for a 146
partial exemption from real property taxation. For purposes of 147
this partial exemption, "business activity" includes all uses of 148
real property, except farming; leasing property for farming; 149
occupying or holding property improved with single-family, 150
two-family, or three-family dwellings; leasing property improved 151
with single-family, two-family, or three-family dwellings; or 152
holding vacant land that the county auditor determines will be 153
used for farming or to develop single-family, two-family, or 154
three-family dwellings. For purposes of this partial exemption, 155
"farming" does not include land used for the commercial production 156
of timber that is receiving the tax benefit under section 5713.23 157
or 5713.31 of the Revised Code and all improvements connected with 158
such commercial production of timber. 159

(2) Each year, the county auditor shall review each parcel of 160
real property to determine whether it qualifies for the partial 161
exemption provided for by this section as of the first day of 162
January of the current tax year. 163

(B) After complying with section 319.301 of the Revised Code, 164
the county auditor shall reduce the remaining sums to be levied 165
against each parcel of real property that is listed on the general 166
tax list and duplicate of real and public utility property for the 167
current tax year and that qualifies for partial exemption under 168
division (A) of this section, and against each manufactured and 169
mobile home that is taxed pursuant to division (D)(2) of section 170
4503.06 of the Revised Code and that is on the manufactured home 171
tax list for the current tax year, by ten per cent, to provide a 172
partial exemption for that parcel or home. Except as otherwise 173
provided in sections 323.152, 323.158, 323.161, 505.06, and 174
715.263 of the Revised Code, the amount of the taxes remaining 175
after any such reduction shall be the real and public utility 176

property taxes charged and payable on each parcel of real 177
property, including property that does not qualify for partial 178
exemption under division (A) of this section, and the manufactured 179
home tax charged and payable on each manufactured or mobile home, 180
and shall be the amounts certified to the county treasurer for 181
collection. Upon receipt of the tax duplicate, the treasurer shall 182
certify to the tax commissioner the total amount by which taxes 183
were reduced under this section, as shown on the duplicate. Such 184
reduction shall not directly or indirectly affect the 185
determination of the principal amount of notes that may be issued 186
in anticipation of any tax levies or the amount of bonds or notes 187
for any planned improvements. If, after application of sections 188
5705.31 and 5705.32 of the Revised Code and other applicable 189
provisions of law, including divisions (F) and (I) of section 190
321.24 of the Revised Code, there would be insufficient funds for 191
payment of debt charges on bonds or notes payable from taxes 192
reduced by this section, the reduction of taxes provided for in 193
this section shall be adjusted to the extent necessary to provide 194
funds from such taxes. 195

(C) The tax commissioner may adopt rules governing the 196
administration of the partial exemption provided for by this 197
section. 198

(D) The determination of whether property qualifies for 199
partial exemption under division (A) of this section is solely for 200
the purpose of allowing the partial exemption under division (B) 201
of this section. 202

Sec. 323.01. Except as otherwise provided, as used in Chapter 203
323. of the Revised Code: 204

(A) "Subdivision" means any county, township, school 205
district, or municipal corporation. 206

(B) "Municipal corporation" includes charter municipalities. 207

(C) "Taxes" means the total amount of all charges against an entry appearing on a tax list and the duplicate thereof that was prepared and certified in accordance with section 319.28 of the Revised Code, including taxes levied against real estate; taxes on property whose value is certified pursuant to section 5727.23 of the Revised Code; recoupment charges applied pursuant to section 5713.35 of the Revised Code; all assessments; penalties and interest charged pursuant to section 323.121 of the Revised Code; charges added pursuant to section 319.35 of the Revised Code; and all of such charges which remain unpaid from any previous tax year.

(D) "Current taxes" means all taxes charged against an entry on the general tax list and duplicate of real and public utility property that have not appeared on such list and duplicate for any prior tax year and any penalty thereon charged by division (A) of section 323.121 of the Revised Code. Current taxes, whether or not they have been certified delinquent, become delinquent taxes if they remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty, unless payment is deferred under section 323.161 of the Revised Code.

(E) "Delinquent taxes" means:

(1) Any taxes charged against an entry on the general tax list and duplicate of real and public utility property that were charged against an entry on such list and duplicate for a prior tax year and any penalties and interest charged against such taxes;

(2) Any current taxes charged on the general tax list and duplicate of real and public utility property that remain unpaid after the last day prescribed for payment of the second installment of such taxes without penalty, whether or not they have been certified delinquent, and any penalties and interest charged against such taxes;

(3) A recoupment charge levied under section 323.164 of the Revised Code if the charge remains unpaid after the last day prescribed for payment of the second installment of taxes for the tax year in which the charge is required to be paid pursuant to that section, and any penalties and interest that have accrued on the recoupment charge under that section. 240
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(F) "Current tax year" means, with respect to particular taxes, the calendar year in which the first installment of taxes is due prior to any extension granted under section 323.17 of the Revised Code. 246
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(G) "Liquidated claim" means: 250

(1) Any sum of money due and payable, upon a written contractual obligation executed between the subdivision and the taxpayer, but excluding any amount due on general and special assessment bonds and notes; 251
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(2) Any sum of money due and payable, for disability financial assistance or disability medical assistance provided under Chapter 5115. of the Revised Code that is furnished to or in behalf of a subdivision, provided that such claim is recognized by a resolution or ordinance of the legislative body of such subdivision; 255
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(3) Any sum of money advanced and paid to or received and used by a subdivision, pursuant to a resolution or ordinance of such subdivision or its predecessor in interest, and the moral obligation to repay which sum, when in funds, shall be recognized by resolution or ordinance by the subdivision. 261
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Sec. 323.16. As used in sections 323.16 to 323.165 of the Revised Code: 266
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(A) "Homestead" means a dwelling, including a unit in a multiple-unit dwelling, and a manufactured or mobile home taxed 268
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pursuant to division (B) or (C) of section 4503.06 of the Revised Code, that is owned and occupied as a home by an individual who is domiciled in this state and who has not acquired ownership from a person, other than the individual's spouse, related by consanguinity or affinity for the purpose of qualifying for the deferral of taxes under sections 323.16 to 323.165 of the Revised Code. "Homestead" includes as much of the land surrounding the dwelling, not exceeding one acre, as is reasonably necessary for the use of the dwelling as a home. The tax commissioner shall adopt rules for the uniform classification of real property and manufactured or mobile homes as homesteads. 270
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(B) "Owner" includes a holder of one of the several estates in fee, a vendee in possession under a purchase agreement or land contract, a mortgagor, a life tenant, one or more tenants with a right of survivorship, tenants in common, and the settlor of a revocable inter vivos trust holding the title to a homestead occupied by the settlor as of right under the trust. 281
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(C) "Qualifying owner" means the owner of a homestead who is either of the following: 287
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(1) Sixty-five years of age or older; 289

(2) The surviving spouse of a decedent who elected to defer taxes under sections 323.16 to 323.165 of the Revised Code and who qualified for such deferral in the year in which the decedent died, provided that the surviving spouse is at least fifty-nine years but not more than sixty-five years of age on the date the decedent spouse died. 290
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(D) "Taxes charged" means the current taxes charged against a homestead after accounting for all reductions under sections 319.301, 319.302, and, if applicable, section 323.152, 323.158, 4503.065, or 4503.0610 of the Revised Code. 296
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(E) "Deferrable taxes" means the current taxes charged 300

against a homestead to the extent that such taxes exceed the taxes 301
charged for the tax year preceding the first tax year taxes were 302
deferred under section 323.161 of the Revised Code pursuant to an 303
application that has been in continuous effect until the current 304
tax year. 305

(F) "Deferred taxes" means the portion of deferrable taxes 306
that an owner has deferred payment of under sections 323.161 to 307
323.165 of the Revised Code. 308

Sec. 323.161. (A) A qualifying owner may elect to defer the 309
payment of deferrable taxes by filing an application with the 310
county auditor of the county in which the qualifying owner's 311
homestead is located on a form or in a manner prescribed by the 312
county auditor. The application shall be filed not later than the 313
first Monday in June of the first tax year for which payment of 314
taxes is to be deferred. The application shall require no more 315
information than is necessary to establish the applicant's 316
eligibility for the deferral. The application shall include the 317
following: 318

(1) An affirmation by the applicant that ownership of the 319
homestead was not acquired from an individual, other than the 320
applicant's spouse, related by consanguinity or affinity for the 321
purpose of qualifying for the deferral of taxes; 322

(2) A statement that willfully falsifying information on the 323
application in order to obtain a deferral of taxes, or failing to 324
notify the county auditor of a change in ownership or occupancy of 325
the homestead that has the effect of disqualifying the applicant 326
for the deferral as provided in division (C) of this section, may 327
result in the recoupment of the deferred taxes and the revocation 328
of the right to defer taxes for a period of three years; 329

(3) An acknowledgement that the applicant has read and 330
understands the statement described in division (A)(2) of this 331

section, and space in which the applicant shall sign the 332
acknowledgement and in which another person shall affirm by 333
signature that the person witnessed the applicant's signature. 334

(B) On or before the day the county auditor has completed the 335
duties prescribed by sections 319.30, 319.301, and 319.302 of the 336
Revised Code, the county auditor shall issue a certificate of 337
deferral in triplicate for the homestead of each qualifying owner 338
who has filed an application as prescribed under division (A) of 339
this section, except homesteads that are manufactured or mobile 340
homes subject to the manufactured home tax under division (C) of 341
section 4503.06 of the Revised Code. In the case of manufactured 342
or mobile homes subject to the manufactured home tax, the county 343
auditor shall issue the certificate of deferral on or before the 344
day the tax bill for the first half of the tax year is issued. The 345
certificate shall state the amount of deferrable taxes and any 346
other information the tax commissioner prescribes. Upon issuing 347
the certificate, the county auditor shall retain one copy and 348
forward one copy and the original to the county treasurer. The 349
county auditor also shall record the amount of deferrable taxes on 350
the general tax list and duplicate of real and public utility 351
property or on the manufactured home tax list, either as a margin 352
entry or in an appropriate column of the list. The county 353
treasurer shall retain the original and shall forward the copy to 354
the qualifying owner by ordinary mail or along with the tax bill 355
issued under section 323.13 or 4503.06 of the Revised Code. 356

(C) The county auditor shall not approve an application 357
unless the applicant has signed the acknowledgement required by 358
division (A)(3) of this section and the signature has been 359
witnessed by another person whose signature appears on the 360
application. The county auditor may not disapprove an application 361
solely because unpaid or delinquent taxes stand charged against 362
the applicant's homestead. 363

If a county auditor does not approve an application, the 364
county auditor, not later than the first Monday of October, shall 365
notify the applicant in writing of the reason for the denial, of 366
the applicant's right to appeal the action, and of the manner in 367
which such an appeal may be taken. The applicant may appeal by 368
filing a complaint with the county board of revision not later 369
than the date of closing the collection of the first half of real 370
and public utility property taxes or of manufactured home taxes. 371
Notwithstanding division (D) or (E) of section 5715.19 of the 372
Revised Code, the complainant shall be required to pay the full 373
amount of taxes due as otherwise required by law until the board 374
of revision renders its decision. For the purpose of an appeal 375
made under this division, references in section 5715.19 of the 376
Revised Code to "real property" shall be construed to include a 377
manufactured or mobile home that constitutes a homestead under 378
sections 323.16 to 323.165 of the Revised Code. 379

(D) The approval of an application entitles the applicant to 380
defer the payment of all or any portion of the deferrable taxes on 381
the homestead for the year in which the application is approved 382
and for each ensuing year until the occurrence of one of the 383
events described in divisions (A)(1) to (3) of section 323.163 of 384
the Revised Code. For each applicant for whom the county auditor 385
has approved an application under this section, the county auditor 386
shall enter the amount of deferrable taxes upon the deferred tax 387
list compiled under section 323.162 of the Revised Code and enter 388
a notation on the tax list and duplicate or manufactured home tax 389
list indicating that deferrable taxes may be deferred for the 390
homestead. Unpaid or delinquent taxes from a previous tax year 391
that stand charged against the homestead shall remain on the 392
appropriate tax list and duplicate and shall remain payable as 393
prescribed by this chapter or section 4503.06 of the Revised Code. 394
Taxes that are not deferrable taxes are payable as otherwise 395
prescribed in this chapter. Deferrable taxes shall not be billed 396

to the owner through any agreement entered into under section 323.134 of the Revised Code. 397
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Deferrable taxes entered on the deferred tax list are payable as prescribed under sections 323.164 and 323.165 of the Revised Code and do not constitute unpaid or delinquent taxes under this chapter, Chapter 5721., sections 4503.06 and 4503.061, or any other section of the Revised Code governing the collection and enforcement of taxes on real property or manufactured or mobile homes, except as otherwise provided under section 323.164 of the Revised Code. 399
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(E) If, in any year after an application has been filed and approved under this section, the homestead does not qualify for deferral of taxes under this section because of a change in ownership or occupancy, the owner shall notify the county auditor. The county auditor may devise a form or manner by which the county auditor elicits from an owner, on an annual or less frequent basis, whether the owner continues to qualify for deferral, but the failure of a county auditor to do so does not relieve an owner of the responsibility to so notify the county auditor. Upon discovering that taxes have been deferred for a year for which the owner was not entitled to deferral and that the owner has not notified the county auditor as required by this section, the county auditor shall charge a penalty of ten per cent of the amount of such illegally or erroneously deferred taxes and shall compute and add a charge for interest. Interest shall be charged on the amount of tax deferred as prescribed by divisions (B)(1) and (2) of section 323.121 or division (G)(2) of section 4503.06 of the Revised Code as if the amount of tax deferred on each day an installment of such tax could be paid without penalty remained unpaid on that day. The county auditor shall add the taxes, penalty, and interest so charged to the tax list and duplicate for the current tax year if the duplicate has not yet been delivered 407
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to the county treasurer at the time of such discovery, or on the 429
ensuing year's tax list and duplicate if the current duplicate has 430
been delivered. Upon collection, such taxes, penalties, and 431
interest shall be distributed among the taxing units and the funds 432
thereof as if levied and collected as current taxes. 433

The county auditor shall notify the owner, by ordinary mail, 434
of the charges, the owner's right to appeal the charges, and the 435
manner in which the owner may appeal. The owner may appeal the 436
imposition of the charges by filing a complaint with the county 437
board of revision. The complaint shall be filed not later than the 438
last day prescribed for the payment of taxes without penalty under 439
section 323.12 or divisions (F) and (G) of section 4503.06 of the 440
Revised Code following the receipt of such a notice and occurring 441
not less than ninety days after the earliest United States postal 442
service postmark on the envelope containing the notice. For the 443
purpose of an appeal made under this division, references in 444
section 5715.19 of the Revised Code to "real property" shall be 445
construed to include a manufactured or mobile home that 446
constitutes a homestead under sections 323.16 to 323.165 of the 447
Revised Code. 448

(F)(1) No person shall knowingly make a false statement for 449
the purpose of obtaining a deferral of taxes under this section. 450

(2) No owner shall knowingly fail to notify the county 451
auditor of changes in ownership or occupancy status that 452
disqualify the owner's homestead for deferral of taxes under this 453
section, as required under division (E) of this section. 454

Sec. 323.162. The county auditor shall compile and maintain a 455
deferred tax list. In addition to the information required by this 456
section, the auditor shall enter on the list any information the 457
tax commissioner may require to be maintained in the list to 458
ensure the proper administration of sections 323.16 to 323.165 of 459

the Revised Code. 460

The county auditor shall enter the following quantities on 461
the deferred tax list opposite each entry on the list: 462

(A) The amount of deferrable taxes for the current tax year; 463

(B) The cumulative amount of deferred taxes for the three tax 464
years immediately preceding the current year, excluding any 465
amounts that have been paid under section 323.164 or 323.165 of 466
the Revised Code. 467

Sec. 323.163. (A) Upon the occurrence of any of the events 468
described in divisions (A)(1) to (3) of this section, payment of 469
taxes shall not be deferred on the owner's homestead for any tax 470
year following the tax year in which the event occurs, and taxes 471
for the three tax years immediately preceding the year in which 472
the event occurred the payment of which has been deferred become 473
payable as prescribed in this section and section 323.164 of the 474
Revised Code: 475

(1) The owner of the homestead dies, subject to division (B) 476
of this section. 477

(2) The owner ceases to own and occupy the property as a 478
homestead. 479

(3) The owner terminates the deferral by filing written 480
notice with the county auditor. 481

(B) If the title to the homestead passes to the surviving 482
spouse upon the death of the decedent spouse, and the surviving 483
spouse is a qualifying owner, deferral of taxes charged against 484
the homestead shall continue until one of the events described in 485
divisions (A)(1) to (3) of this section occurs with respect to the 486
surviving spouse. If a surviving spouse's claim to the title to 487
the homestead is contingent, but the surviving spouse otherwise 488

qualifies for deferral, the executor or administrator of the 489
deceased spouse's estate may file an application with the county 490
auditor to have the deferral continued on behalf of the surviving 491
spouse until the spouse holds title to the homestead. In either 492
event, the surviving spouse becomes the qualifying owner of the 493
homestead for purposes of sections 323.16 to 323.165 of the 494
Revised Code upon the title passing to the surviving spouse. If 495
the surviving spouse does not subsequently obtain title to the 496
homestead pursuant to such proceedings, the deferral on behalf of 497
the surviving spouse shall be discontinued in the tax year 498
following that in which the decedent's death occurred. The auditor 499
shall correct the taxes charged for each year during which the 500
surviving spouse's claim to the title to the homestead was 501
contingent, and shall make corrections in the tax list and 502
duplicate and in the deferred tax list as though the original 503
entries were erroneous. 504

If the title to the homestead does not pass to the surviving 505
spouse upon the death of the decedent spouse, or the surviving 506
spouse does not qualify for the deferral of taxes under section 507
323.161 of the Revised Code, the surviving spouse may elect to 508
continue to defer those taxes deferred by election of the deceased 509
spouse until the surviving spouse dies, ceases to own and occupy 510
the property as a homestead, or terminates the deferral as 511
provided in division (A)(3) of this section, but no deferral 512
resulting from the original application shall be provided to the 513
surviving spouse for any tax year following that for which the 514
deceased spouse last elected deferral. 515

(C) If the owner of a homestead who has elected to defer 516
payment of taxes under section 323.161 of the Revised Code, or an 517
executor, administrator, guardian, or trustee with responsibility 518
for the homestead intends to convey the homestead to another 519
person; if the title to the homestead passes by operation of law 520

or a previously executed instrument; or if it is determined that 521
the surviving spouse does not become owner of the homestead, the 522
owner, executor, administrator, guardian, or trustee, with that 523
intention or having direct knowledge of that passage of title or 524
determination, shall notify the county auditor of the intention 525
and resulting conveyance, the passage of title, or the 526
determination. 527

(D) If the county auditor receives notice or otherwise 528
determines that the homestead is to be conveyed to another person 529
other than in the manner required under section 319.202 of the 530
Revised Code, the auditor shall demand of the grantor or the 531
responsible executor, administrator, guardian, or trustee, and any 532
person who is known to be scheduled to disburse moneys in 533
connection with the closing of a sale of the homestead, that a 534
sufficient amount be paid to the auditor to recoup an amount equal 535
to the charge that otherwise would be levied against the homestead 536
under section 323.164 of the Revised Code. If that amount is not 537
paid to the county treasurer as required by that section, the 538
charge shall be levied against the homestead and is a lien against 539
it in the hands of the purchaser and any successor owners, 540
regardless of notice or knowledge, until the amount is paid. Any 541
person on whom demand was made who does not make the demanded 542
payment out of money received as a result of a sale of the 543
property is personally liable for the amount of the demand, and 544
the county treasurer shall certify the amount to the prosecuting 545
attorney, who has a cause of action for the recovery thereof in 546
the court of common pleas. 547

Sec. 323.164. (A) Upon the termination of a deferral under 548
section 323.163 of the Revised Code because of the occurrence of 549
one of the events described in division (A)(1) or (2) of that 550
section, the county auditor shall levy a charge against the 551
homestead equal to the sum of the cumulative amount of deferred 552

taxes for the three tax years immediately preceding the year in 553
which the event occurred. 554

The county auditor shall place such amount as a separate item 555
on the next tax list and duplicate the auditor prepares, and the 556
recoupment charge shall be collected by the county treasurer in 557
the same manner and at the same time as other real property taxes 558
on that list and duplicate are collected. 559

If the recoupment charge is not paid when due, the charge 560
constitutes unpaid taxes, and the penalties and interest 561
prescribed by section 323.121 of the Revised Code shall accrue on 562
the charge in the same manner as penalties and interest accrue 563
under that section on unpaid taxes. 564

When the recoupment charge and any penalties and interest are 565
collected, the county treasurer shall distribute the charge and 566
any such penalties and interest among the taxing units and funds 567
thereof as if levied and collected as current taxes. 568

The recoupment charge levied by this section constitutes a 569
lien of the state against the homestead as of the first day of 570
January of the tax year in which the charge is levied and shall 571
continue until discharged as provided by law. The county auditor 572
shall file the lien for recording as other tax liens are recorded. 573

(B) If the deferral of taxes is terminated for the reason 574
described in division (A)(3) of section 323.163 of the Revised 575
Code, the owner may pay all or a portion of the amounts described 576
in section 323.165 of the Revised Code, or may elect to continue 577
to defer payment of the taxes that had been deferred prior to the 578
termination until the occurrence of one of the events described in 579
division (A)(1) or (2) of section 323.163 of the Revised Code. 580

Sec. 323.165. At any time prior to the day the recoupment 581
charge levied under section 323.164 of the Revised Code is 582

required to be paid, an owner upon whose homestead taxes have been 583
deferred under section 323.161 of the Revised Code may pay to the 584
county treasurer all or a portion of the deferred taxes for the 585
three tax years immediately preceding the tax year in which 586
payment is made under this section. The county treasurer shall 587
give the owner a receipt indicating the amount of deferred taxes 588
paid. 589

The county treasurer shall distribute all money collected 590
under this section to the taxing units and funds thereof as if 591
levied and collected as current taxes. 592

Sec. 323.99. Whoever violates division (D), (E), or (F) of 593
section 323.153 ~~or~~, division (B) of section 323.159, or division 594
(F)(1) or (2) of section 323.161 of the Revised Code is guilty of 595
a misdemeanor of the fourth degree. 596

Section 2. That existing sections 319.202, 319.302, 323.01, 597
and 323.99 of the Revised Code are hereby repealed. 598