



**S.B. 283**

127th General Assembly  
(As Introduced)

Sens. Roberts, Mumper, Kearney, R. Miller, D. Miller

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**BILL SUMMARY**

- Authorizes a municipal corporation that abates a nuisance or otherwise addresses problems on real property to have the costs charged against the property owner's primary residence on the property tax list as a lien against the residence.
- Requires any person with a recorded interest in real property to file the person's name and mailing address with the county auditor.
- Requires county recorders to maintain a list of the name and address of persons filing that information with county auditors.

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**CONTENT AND OPERATION**

**Nuisance abatement costs charged against owner's residence**

(R.C. 715.261)

Current law authorizes municipal corporations incurring costs to abate nuisances or otherwise address problems on real property to pursue collection of the costs by having them added as a charge against the property on the tax list. The costs that may be recovered include the costs of providing employees, materials, or equipment (directly or by contract) to remove, repair, or secure unsafe, structurally defective, or abandoned structures or to correct hazardous conditions or abate other nuisances. Once on the tax list, the costs constitute a lien against the property, and are to be collected as property taxes are collected.<sup>1</sup>

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<sup>1</sup> Current law refers to the tax duplicate instead of the tax list. Because both the tax list (in the county auditor's possession) and the tax duplicate (in the county treasurer's possession) must correspond with each other at all times (R.C. 319.35), the bill makes appropriate amendments to recognize the relationship between the list and duplicate.

(Property taxes are collected through semiannual billing and, if not paid, remain a continuing liability against the property regardless of changes in ownership; ultimately, they may be collected through foreclosing the tax lien and selling the property to pay the charges against the property.) To have the costs placed on the tax list, the clerk of the municipal corporation's legislative authority certifies the costs to the county auditor. Separately, a municipal corporation may initiate a civil action on its own behalf to collect the costs from the property owner.

The bill adds a third method to collect the costs by authorizing municipal corporations to have the costs placed on the tax list as a charge against the property owner's primary residence if the location of that residence is known. The municipal corporation may certify the costs to the county auditor of the county where the residence is located, but, before certifying the costs, the municipal corporation must send a notice to the property owner's last known tax mailing address.<sup>2</sup> (The notice provisions are explained below.) Once the notice is sent, the property owner is given 30 days to either pay the costs or show just cause why the owner should not pay the costs. If, within that 30-day period, the owner does not pay the costs or show cause for not paying, the municipal corporation may certify the costs to the county auditor, and the costs become a charge against the owner's primary residence on the tax list, stand as a lien against the property, and become collectible in the same manner as property taxes.

***Certification of costs.*** The certification to the county auditor must include a proper description of the property. If the certification is received after the county auditor has delivered the tax duplicate to the county treasurer (scheduled to occur on or about October 1), the costs must be entered in the margins of the tax list and duplicate as additional charges. The lien for the costs is created when the costs are entered on the list and duplicate or as marginal notations. As under current law's cost certification against nuisance property, costs may not be certified for collection against the owner's primary residence if that residence has been forfeited to the state for delinquent taxes unless the owner has redeemed the residence from forfeiture by paying all delinquent taxes and charges.

***Corporate or entity ownership.*** If the owner of property against which costs are charged is an association (e.g., a corporation, partnership, limited liability company), the costs may be levied against the primary residence of the individual who owns the majority of the association's equity interests.

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<sup>2</sup> The tax mailing address is the address to which property tax bills are to be mailed in compliance with R.C. 323.13. Property owners have a duty, under that section, to notify the county treasurer of any changes in the tax mailing address.

**Notice to owner.** The notice to the property owner must be sent by certified mail. It must state that if the owner does not pay the costs or show just cause why the costs should not be paid within 30 days, the costs will be charged against the owner's primary residence, will constitute a lien against the residence, and will be enforceable as a lien for taxes. The bill states that delivery of the notice to the last known tax mailing address of the property owner constitutes constructive notice of the costs due.<sup>3</sup> The bill also states that the absence of a valid tax mailing address does not preclude the taxes from being levied on the tax lists and collected under the authority of the bill.

**Payment of costs.** The lien for the costs continues until the costs are paid. The costs may be paid separately from taxes or other charges against the residence, notwithstanding a provision of continuing law permitting county treasurers to decline tax payments for less than the full amount due (R.C. 323.15). All costs paid must be remitted to the municipal corporation.

**List of name and address of property interest holders**

(R.C. 317.13(D) and 319.204)

The bill requires owners of real property and other persons with recorded interests in real property to file "and maintain" their name and address with the county auditor. The apparent purpose of the filing is to compile a record enabling any notices "related to the ownership, taxation, condition, or use" of the property to be mailed to the person. The requirement applies to any person with an interest in real property "by deed, mortgage, plat, or other instrument of writing" recorded with the county recorder.

The filing must be made on a form to be provided by the county auditor. The county recorder is required to maintain a list of the names and addresses filed with the county auditor, together with a cross-reference between the property and the corresponding name and address. The bill does not specify how or when the filing is to be made, and whether or how interested parties are to be notified of the requirement; and it does not prescribe any penalty for failure to file or maintain the filing.

Under current law, owners of residential rental property in counties with a population exceeding 200,000 are required to file information with the county auditor, including the name and address of the owner, among other information. (R.C. Chapter 5323.) Any owner of residential rental property that complies with

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<sup>3</sup> Constructive notice is a legal concept whereby a person's receipt of a notice is presumed as a matter of law, regardless of whether the person actually receives the notice.

this filing requirement is deemed by law "to be in full compliance with any request by the state or any political subdivision . . . for information that is identical to the information filed with the county auditor under this chapter." (R.C. 5323.04.) A "political subdivision" is defined as a county with a population of more than 200,000 or townships, municipal corporations, or other bodies corporate and politic that are located in such a county. It is uncertain whether compliance with this requirement in such a county would constitute compliance with the bill's filing requirements.

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## **HISTORY**

ACTION	DATE
Introduced	01-29-08

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