



# Ohio Legislative Service Commission

## Bill Analysis

Amber Hardesty

### Sub. H.B. 313

128th General Assembly

(As Reported by H. Local Government and Public Administration)

**Reps.** Ujvagi and Winburn, Domenick, Patten, Murray, Hagan, Driehaus, B. Williams, Foley, Skindell, S. Williams, Letson, Stewart, Lehner, Yuko

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## BILL SUMMARY

- Authorizes a county with a population greater than 100,000, or with a population between 78,000 and 81,000, to organize a county land reutilization corporation (CLRC).
- Authorizes a county treasurer of a county with a CLRC to utilize the alternative redemption period in actions to foreclose abandoned lands.
- Exempts a CLRC from being subject to equitable remedies in connection with a parcel of land the CLRC acquires.
- Immunizes a CLRC from liability for breach of a common law duty in connection with a parcel of land the CLRC acquires.
- Modifies the membership of a CLRC board of directors.
- Makes changes regarding eligible deposits or investments of county inactive moneys, use of moneys deposited in the County Land Reutilization Fund, and CLRC making of loans.
- Requires the CLRC annual financial report to be made available online.

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## **CONTENT AND OPERATION**

### **County land reutilization corporations**

#### **Creation of county land reutilization corporations**

(R.C. 1724.04)

Current law authorizes the board of county commissioners of a county having a population exceeding 1.2 million, and that has elected to implement land reutilization powers, to create a county land reutilization corporation (CLRC). A CLRC is a nonprofit corporation created for the purposes of promoting development and managing and facilitating the reclamation, rehabilitation, and reutilization of vacant, abandoned, or tax-foreclosed real property.

The bill authorizes counties having a population of more than 100,000, or a population between 78,000 and 81,000, as of the most recent federal decennial census, to create a CLRC.

#### **Board of CLRC**

(R.C. 1.62 and 1724.03)

Under current law the board of directors of a CLRC must be composed of at least five members, including the county treasurer, at least two of the members of the board of county commissioners, and two members selected by the treasurer and the county commissioners who are members of the CLRC's board and approved by a majority of the chief executive officers of all municipal corporations the majority of the territory of which is located in the county. The treasurer and county commissioners who are members of the board of directors must establish the process by which this approval is obtained. The failure, refusal, or inability of any chief executive officer to respond in writing to any request for approval of the members selected by the treasurer and county commissioners within 14 days is deemed to be an approval by that chief executive officer. Any such failure, refusal, or inability to respond does not prevent the CLRC from exercising its powers and authority under the CLRC Law.

Under the bill, the board of directors of a CLRC must be composed of five, seven, or nine members, including the county treasurer, at least two of the members of the board of county commissioners, one representative of the largest municipal corporation, based on the population according to the most recent federal decennial census, that is located in the county, one representative of a township with a population of at least 10,000 in the unincorporated area of the township according to the most recent federal decennial census, if such a township exists in the county, and any remaining members

selected by the treasurer and the county commissioners who are members of the CLRC's board. Additionally, under the bill at least one board member must have private sector or nonprofit experience in rehabilitation or real estate acquisitions. The bill also removes the approval process described above.

### **Board membership for a county with a county charter**

The bill states that for a county that has adopted a charter under the Ohio Constitution, if any section of the Revised Code requires county representation on a board, commission, or authority by more than one county officer, and the charter vests the powers, duties, or functions of each county officer representing the county on the board, commission, or authority in fewer officers or in only a single county officer, the county officers or officer must succeed to the representation of only one of the county officers on the board, commission, or authority. If any vacancy in the representation of the county on the board, commission, or authority remains, the taxing authority of the county must adopt a resolution to fill the vacancy. Because the board of directors of a CLRC contains at least two members of a board of county commissioners, this provision may be applicable to a county that has adopted a charter.

### **CLRC liabilities**

(R.C. 5722.22)

Under current law, a CLRC that acquires property is not subject to liability for damages arising from damage caused by leaking underground storage tanks, air pollution, sewage waste, and hazardous wastes and chemicals under R.C. Chapters 3704., 3734., 3737., 3745., 3746., 3750., 3751., 3752., 6101., and 6111., or for violation of any rule adopted, or order, permit, license, variance, or plan approval issued, under those chapters that is or was committed by another person in connection with a parcel of land the CLRC acquires.

The bill adds that a CLRC is not liable for damages or subject to equitable remedies for breach of a common law duty or for violation of the chapters listed above or any rule adopted or order, permit, license, variance, or plan approval issued under any of those chapters in connection with a parcel of land the CLRC acquires. The bill also removes the limitation that the violation had to be committed "by another person."

## Nonjudicial foreclosure proceedings for abandoned lands

(R.C. 323.78)

Current law creates an alternative redemption period<sup>1</sup> that potentially shortens the time within which an owner or other interested party can redeem abandoned tax-foreclosed property. Under current law, if the county treasurer of a county having a population of more than 1.2 million as of the most recent decennial census (currently Cuyahoga County), in any petition for foreclosure of abandoned lands,<sup>2</sup> elects to invoke the alternative redemption period, then upon any adjudication of foreclosure by any court or the board of revision in any proceeding enforcing a tax lien, for a foreclosure on unoccupied lands, or a foreclosure on lien of the state, the following apply:

(1) Unless otherwise ordered by a motion of the court or board of revision, the petition must assert, and any notice of final hearing must include, that upon foreclosure of the parcel, the equity of redemption in any parcel by its owner is forever terminated after the expiration of the alternative redemption period, that the parcel thereafter can be sold at sheriff's sale either by itself or together with other parcels as permitted by law; or that the parcel can, by order of the court or board of revision, be transferred directly to a municipal corporation, township, county, school district, or CLRC without appraisal and without a sale, free and clear of all impositions and any other liens on the property, which are deemed forever satisfied and discharged.

(2) After the expiration of the alternative redemption period following an adjudication of foreclosure, by order of the court or board of revision, any equity of redemption is forever extinguished, and the parcel can be transferred individually or in lots with other tax-foreclosed properties to a municipal corporation, township, county, school district, or CLRC without appraisal and without a sale, upon which all impositions and any other liens subordinate to liens for impositions due at the time the deed to the property is conveyed to a purchaser or transferred to a community development organization, CLRC, municipal corporation, county, township, or school district, are deemed satisfied and discharged. Other than the order of the court or board

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<sup>1</sup> "Alternative redemption period," is the 45-day period after an adjudication of foreclosure of the parcel is journalized by a court or county board of revision having jurisdiction over the foreclosure proceedings (R.C. 323.65, not in the bill).

<sup>2</sup> "Abandoned land" means delinquent lands or delinquent vacant lands, including any improvements on the lands, that are unoccupied and that first appeared on the list of parcels of abandoned land, or the delinquent tax list or delinquent vacant land tax list, at whichever of the following times is applicable: (1) in the case of lands other than agricultural lands, at any time after the county auditor makes the certification of the delinquent land list, or (2) in the case of agricultural lands, at any time after two years after the county auditor makes the certification of the delinquent land list (R.C. 323.65, not in the bill).

of revision so ordering the transfer of the parcel, no further act of confirmation or other order is required for the transfer, or for the extinguishment of any right of redemption.

(3) Upon the expiration of the alternative redemption period in cases to which the alternative redemption period has been ordered, if no community development organization, CLRC, municipal corporation, county, township, or school district has requested title to the parcel, the court or board of revision can order the property sold as otherwise provided in Ohio law, and, failing any bid at that sale, the parcel is forfeited to the state and must be otherwise disposed of pursuant to Ohio law regarding the sale of forfeited property.

The bill makes these provisions also applicable to counties in which a CLRC operates (see above).

### **Financial investment or deposit**

(R.C. 135.35)

Current law specifies several classifications of securities and obligations that are eligible for deposit or investment by a county treasurer of any part or all of the county's inactive moneys. (Inactive money refers to public funds on deposit with public depositories that are not needed to meet the current needs of the county treasury.) Current law also states that all such investments, except for ones specifically exempted, must be made only through a member of the National Association of Securities Dealers, through a bank, savings bank, or savings and loan association regulated by the Superintendent of Financial Institutions, or through an institution regulated by the Comptroller of the Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System.

Under the bill, a county treasurer may deposit or invest county inactive moneys in bonds and other obligations of a CLRC, if the CLRC is located wholly or partly within the same county as the county treasurer. Additionally, the bill exempts this type of investment from the requirement of being made through a member of the National Association of Securities Dealers, through a bank, savings bank, or savings and loan association regulated by the Superintendent of Financial Institutions, or through an institution regulated by the Comptroller of the Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System.

## Use of money deposited in CLRC fund

(R.C. 321.343)

The bill provides that a county treasurer of a county in which a CLRC has been organized can enter into an agreement with the CLRC for the benefit of the holders of debt obligations of the CLRC for the repayment of which will be pledged the penalties and interest on current year unpaid taxes<sup>3</sup> and current year delinquent taxes.<sup>4</sup> The pledge agreement can include, without limitation, the following: (1) a pledge by the county treasurer of and a grant of a security interest in the penalties and interest deposited into the County Land Reutilization Fund to the payment of debt service on the debt obligations and (2) a covenant of the county treasurer to continue to make the authorized special tax advances when the debt obligations remain outstanding if necessary to generate from the penalties and interest at least the amount needed to pay the debt service on the debt obligations when due. The pledged and deposited penalties and interest are immediately subject to the pledge and security interest without any physical delivery thereof or further act. The pledge and security interest are valid, binding, and enforceable against all parties having claims of any kind against the CLRC or the county treasurer, irrespective of notice thereof, and the pledge and grant of a security interest creates a perfected security interest for all purposes of the Secured Transaction Law, without the necessity for separation or delivery or possession of the pledged penalties and interest, or for the filing or recording of the document by which the pledge and security interest are created. The deposited penalties and interest can be applied to the pledged purposes without necessity for any act of appropriation. The performance under this pledge agreement is expressly determined and declared to be a duty specifically enjoined by law upon the county treasurer and each officer and employee having authority to perform the duty of the county treasurer resulting from an office, trust, or station enforceable by writ of mandamus.<sup>5</sup>

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<sup>3</sup> "Current year unpaid taxes" means the aggregate amount of the first installment of current taxes that remain unpaid after the last day on which the first installment of such taxes can be paid without penalty (R.C. 321.341, not in the bill).

<sup>4</sup> "Current year delinquent taxes" means the aggregate amount of current taxes that remain unpaid after the last day on which the second installment of such taxes can be paid without penalty (R.C. 321.341, not in the bill).

<sup>5</sup> Mandamus is a writ, issued in the name of the state to an inferior tribunal, a corporation, board, or person, commanding the performance of an act which the law specially enjoins as a duty resulting from an office, trust, or station (R.C. 2731.01, not in the bill).

## Making of loans by CLRC

(R.C. 1724.02)

Under current law, a CLRC can make revolving loans to community development corporations or groups for the purposes contained in the CLRC's plan. The bill modifies to whom a CLRC can make revolving loans by authorizing them to be made to community development corporations, private entities, or any person.

## Financial report

(R.C. 1724.05)

Under continuing law, a CLRC must prepare an annual financial report that conforms to rules prescribed by the Auditor of State, that is prepared according to generally accepted accounting principles, and that is certified by the board of directors of the CLRC or its treasurer or other chief fiscal officer to the best knowledge and belief of those persons certifying the report. The financial report must be filed with the Auditor within 120 days following the last day of the CLRC's fiscal year, unless the Auditor extends that deadline. The Auditor can establish terms and conditions for granting any extension of that deadline.

The bill adds that the financial report must be published on the CLRC's web site, or if the CLRC does not have a web site, on the web site of the county in which the CLRC is located.

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## HISTORY

ACTION	DATE
Introduced	10-14-09
Reported, H. Local Gov't & Public Administration	12-10-09

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