



Ohio Revised Code

Section 715.261 Recovering total cost of correcting hazardous condition of building or abating nuisance.

Effective: September 4, 2014

Legislation: Senate Bill 172 - 130th General Assembly

(A) As used in this section:

(1) "Total cost" means any costs incurred due to the use of employees, materials, or equipment of the municipal corporation or its agent pursuant to division (E) of this section, any costs arising out of contracts for labor, materials, or equipment, and costs of service of notice or publication required under this section.

(2) "Abatement activity" means each instance of any of the following:

(a) Removing, repairing, or securing insecure, unsafe, structurally defective, abandoned, deserted, or open and vacant buildings or other structures;

(b) Making emergency corrections of hazardous conditions;

(c) Abatement of any nuisance by a municipal corporation or its agent pursuant to division (E) of this section.

(B) A municipal corporation or its agent pursuant to division (E) of this section may collect the total cost of abatement activities by any of the methods prescribed in division (B)(1), (2), or (3) of this section.

(1) For each abatement activity in which costs are incurred, the clerk of the legislative authority of the municipal corporation or its agent pursuant to division (E) of this section may certify the total costs of each abatement activity, together with the parcel number or another proper description of the lands on which the abatement activity occurred, the date the costs were incurred for each abatement activity, and the name of the owner of record at the time the costs were incurred for each abatement activity, to the county auditor who shall place the costs as a charge upon the tax list and



duplicate. The costs are a lien upon such lands from and after the date the costs were incurred. The costs shall be collected as other taxes and returned to the municipal corporation or its agent pursuant to division (E) of this section, as directed by the clerk of the legislative authority in the certification of the total costs or in an affidavit from the agent delivered to the county auditor or county treasurer. The placement of the costs on the tax list and duplicate relates back to, and is effective in priority, as of the date the costs were incurred, provided that the municipal corporation or its agent pursuant to division (E) of this section certifies the total costs within one year from the date the costs were incurred.

If a lien placed on a parcel of land pursuant to this division is extinguished as provided in division (H) of this section, a municipal corporation may pursue the remedy available under division (B)(2) of this section to recoup the costs incurred with respect to that parcel from any person that held title to the parcel at the time the costs were incurred.

(2) The municipal corporation or its agent pursuant to division (E) of this section may commence a civil action to recover the total costs from the person that held title to the parcel at the time the costs were incurred.

(3) A municipal corporation or its agent pursuant to division (E) of this section may file a lien on a parcel of land for the total costs incurred under this section with respect to the parcel by filing a written affidavit with the county recorder of the county in which the parcel is located that states the parcel number, the total costs incurred with respect to the parcel, and the date such costs were incurred. The municipal corporation or its agent may pursue a foreclosure action to enforce the lien in a court of competent jurisdiction or, pursuant to sections 323.65 to 323.79 of the Revised Code, with the board of revision. The municipal corporation or its agent may elect to acquire the parcel by indicating such an election in the complaint for foreclosure or in an amended complaint. Upon the entry of a decree of foreclosure, the county sheriff shall advertise and offer the property for sale on at least one occasion. The minimum bid with regard to the sale of the foreclosed property shall equal the sum of the taxes, penalties, interest, costs, and assessments due and payable on the property, the total costs incurred by the municipal corporation or its agent with respect to the property, and any associated court costs and interest as authorized by law. An owner of the property may redeem the property by paying the minimum bid within ten days after the entry of the decree of foreclosure. If an owner fails to so redeem the property, and if the parcel is not sold for want of a minimum bid, the



property shall be disposed of as follows:

(a) If the municipal corporation or its agent elects to acquire the property, the parcel shall be transferred to the municipal corporation or its agent as if the property were transferred by all owners in title to the municipal corporation or its agent in lieu of foreclosure as provided in section 5722.10 of the Revised Code;

(b) If the municipal corporation or its agent does not elect to acquire the property, the parcel shall be forfeited to the state or to a political subdivision or school district as provided in Chapter 5723. of the Revised Code.

When a municipal corporation or its agent acquires property as provided in this division, the property shall not be subject to foreclosure or forfeiture under section 323.25 or Chapter 5721. or 5723. of the Revised Code, and any lien on the property for costs incurred under this section or for any unpaid taxes, penalties, interest, charges, or assessments shall be extinguished.

(C) This section applies to any action taken by a municipal corporation, or its agent pursuant to division (E) of this section, pursuant to section 715.26 of the Revised Code or pursuant to Section 3 of Article XVIII, Ohio Constitution.

(D)(1) A municipal corporation or its agent pursuant to division (E) of this section shall not certify to the county auditor for placement upon the tax list and duplicate and the county auditor shall not place upon the tax list and duplicate as a charge against the land the costs of any abatement activity undertaken under division (B) of this section if any of the following apply:

(a) The abatement activity occurred on land that has been transferred or sold to an electing subdivision as defined in section 5722.01 of the Revised Code, regardless of whether the electing subdivision is still the owner of the land, and the abatement activity occurred on a date prior to the transfer or confirmation of sale to the electing subdivision.

(b) The abatement activity occurred on land that has been sold to a purchaser at sheriff's sale or auditor's sale, the abatement activity occurred on a date prior to the confirmation of sale, and the purchaser is not the owner of record of the land immediately prior to the judgment of foreclosure



nor any of the following:

- (i) A member of that owner's immediate family;
 - (ii) A person with a power of attorney appointed by that owner who subsequently transfers the land to the owner;
 - (iii) A sole proprietorship owned by that owner or a member of that owner's immediate family;
 - (iv) A partnership, trust, business trust, corporation, or association of which the owner or a member of the owner's immediate family owns or controls directly or indirectly more than fifty per cent.
- (c) The abatement activity is taken on land that has been forfeited to this state for delinquent taxes, unless the owner of record redeems the land.
- (2) Upon valid written notice to the county auditor by any owner possessing an ownership interest of record of the land or by an electing subdivision previously in the chain of title of the land that the costs of an abatement activity undertaken under division (B) of this section was certified for placement or placed upon the tax list and duplicate as a charge against the land in violation of this division, the county auditor shall promptly remove such charge from the tax duplicate. This written notice to the county auditor shall include all of the following:
- (a) The parcel number of the land;
 - (b) The common address of the land;
 - (c) The date of the recording of the transfer of the land to the owner or electing subdivision;
 - (d) The charge allegedly placed in violation of this division.
- (E) A municipal corporation may enter into an agreement with a county land reutilization corporation organized under Chapter 1724. of the Revised Code wherein the county land reutilization corporation agrees to act as the agent of the municipal corporation in connection with



removing, repairing, or securing insecure, unsafe, structurally defective, abandoned, deserted, or open and vacant buildings or other structures, making emergency corrections of hazardous conditions, or abating any nuisance, including high weeds, overgrown brush, and trash and debris from vacant lots. The total costs of such actions may be collected by the corporation pursuant to division (B) of this section, and shall be paid to the corporation if it paid or incurred such costs and has not been reimbursed by the owner of record at the time of the action or any other party with a recorded interest in the land.

(F) In the case of the lien of a county land reutilization corporation that is the agent of a municipal corporation, a notation shall be placed on the tax list and duplicate showing the amount of the lien ascribed specifically to the agent's total costs. The agent has standing to pursue a separate cause of action for money damages to satisfy the lien or pursue a foreclosure action in a court of competent jurisdiction or with the board of revision to enforce the lien without regard to occupancy. For purposes of a foreclosure proceeding by the county treasurer for delinquent taxes, this division does not affect the lien priority as between a county land reutilization corporation and the county treasurer, but the corporation's lien is superior to the lien of any other lienholder of the property. As to a direct action by a county land reutilization corporation, the lien for the taxes, assessment, charges, costs, penalties, and interest on the tax list and duplicate is in all cases superior to the lien of a county land reutilization corporation, whose lien for total costs shall be next in priority as against all other interests, except as provided in division (G) of this section.

(G) A county land reutilization corporation acting as an agent of a municipal corporation under an agreement under this section may, with the county treasurer's consent, petition the court or board of revision with jurisdiction over an action undertaken under division (F) of this section pleading that the lien of the corporation, as agent, for the total costs shall be superior to the lien for the taxes, assessments, charges, costs, penalties, and interest. If the court or board of revision determines that the lien is for total costs paid or incurred by the corporation as such an agent, and that subordinating the lien for such taxes and other impositions to the lien of the corporation promotes the expeditious abatement of public nuisances, the court or board may order the lien for the taxes and other impositions to be subordinate to the corporation's lien. The court or board may not subordinate the lien for taxes and other such impositions to any other liens.

(H) When a parcel of land upon which a lien has been placed under division (B)(1) or (3) of this



section is transferred to a county land reutilization corporation, the lien on the parcel shall be extinguished if the lien is for costs or charges that were incurred before the date of the transfer to the corporation and if the corporation did not incur the costs or charges, regardless of whether the lien was attached or the costs or charges were certified before the date of transfer. In such a case, the county land reutilization corporation and its successors in title shall take title to the property free and clear of any such lien and shall be immune from liability in any action to collect such costs or charges.

If a county land reutilization corporation takes title to property before any costs or charges have been certified or any lien has been placed with respect to the property under division (B)(1) or (3) of this section, the corporation shall be deemed a bona fide purchaser for value without knowledge of such costs or lien, regardless of whether the corporation had actual or constructive knowledge of the costs or lien, and any such lien shall be void and unenforceable against the corporation and its successors in title.

(I) A municipal corporation or county land reutilization corporation may file an affidavit with the county recorder under section 5301.252 of the Revised Code stating the nature and extent of any proceedings undertaken under this section. Such an affidavit may include a legal description of a parcel or, in lieu thereof, the common address of the parcel and the permanent parcel number to which such address applies.