

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**S. B. No. 75**

**Senator Brown**

**Cosponsors: Senators Williams, Thomas, Yuko, Schiavoni, Tavares**

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**A BILL**

To amend sections 743.04 and 6103.02 of the Revised 1  
Code regarding property liens for unpaid county 2  
or municipal water service charges. 3

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

**Section 1.** That sections 743.04 and 6103.02 of the Revised 4  
Code be amended to read as follows: 5

**Sec. 743.04.** (A) For the purpose of paying the expenses of 6  
conducting and managing the waterworks of a municipal 7  
corporation, including operating expenses and the costs of 8  
permanent improvements, the director of public service or any 9  
other city official or body authorized by charter may assess and 10  
collect a water rent or charge of sufficient amount and in such 11  
manner as the director, other official, or body determines to be 12  
most equitable from all tenements and premises supplied with 13  
water. 14

(1) When water rents or charges are not paid when due, the 15  
director or other official or body may do either or both of the 16  
following: 17

(a) Certify them, together with any penalties, to the 18

county auditor. The county auditor shall place the certified amount on the real property tax list and duplicate against the property served by the connection if the auditor also receives from the director or other official or body additional certification that the unpaid rents or charges have arisen pursuant to a service contract made directly with an owner who occupies the property served and that one of the following applies:

(i) The property has not been sold to a new owner after the date the unpaid water rents or charges became due.

(ii) The property has been sold since the date the unpaid water rents or charges became due, and neither party to the most recent sale, either directly or through their agents:

(I) Made a timely request for a final bill to be rendered for all outstanding rents or charges for water service under division (A) (5) of this section; or

(II) Paid the outstanding rents or charges on the final bill for water service rendered under division (A) (5) of this section.

The amount placed on the tax list and duplicate shall be a lien on the property served from the date placed on the list and duplicate and shall be collected in the same manner as other taxes, except that, notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in such amount when separately tendered as payment for the full amount of such unpaid water rents or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount. Any amounts collected by the county treasurer under this division shall be immediately placed in the

distinct fund established by section 743.06 of the Revised Code. 48

(b) Collect them by actions at law, in the name of the 49  
city from an owner, tenant, or other person who is liable to pay 50  
the rents or charges. 51

(2) The director or other official body shall not certify 52  
to the county auditor for placement upon the tax list and 53  
duplicate and the county auditor shall not place upon the tax 54  
list and duplicate as a charge against the property the amount 55  
of any unpaid water rents or charges together with any penalties 56  
as described in division (A) (1) (a) of this section if any of the 57  
following apply: 58

(a) The property served by the connection has been 59  
transferred or sold to an electing subdivision as defined in 60  
section 5722.01 of the Revised Code, regardless of whether the 61  
electing subdivision is still the owner of the property, and the 62  
unpaid water rents or charges together with any penalties have 63  
arisen from a period of time prior to the transfer or 64  
confirmation of sale to the electing subdivision; 65

(b) The property served by the connection has been sold to 66  
a purchaser at sheriff's sale or auditor's sale, the unpaid 67  
water rents or charges together with any penalties have arisen 68  
from a period of time prior to the confirmation of sale, and the 69  
purchaser is not the owner of record of the property immediately 70  
prior to the judgment of foreclosure nor any of the following: 71

(i) A member of that owner's immediate family; 72

(ii) A person with a power of attorney appointed by that 73  
owner who subsequently transfers the land to the owner; 74

(iii) A sole proprietorship owned by that owner or a 75  
member of that owner's immediate family; 76

(iv) A partnership, trust, business trust, corporation, or 77  
association of which the owner or a member of the owner's 78  
immediate family owns or controls directly or indirectly more 79  
than fifty per cent. 80

(c) The property served by the connection has been 81  
forfeited to this state for delinquent taxes, unless the owner 82  
of record redeems the property. 83

(3) Upon valid written notice to the county auditor by any 84  
owner possessing an ownership interest of record of the property 85  
or by an electing subdivision previously in the chain of title 86  
of the property that the unpaid water rents or charges together 87  
with any penalties have been certified for placement or placed 88  
upon the tax list and duplicate as a charge against the property 89  
in violation of division (A) (2) of this section, the county 90  
auditor shall promptly remove such charge from the tax 91  
duplicate. This written notice to the county auditor shall 92  
include all of the following: 93

(a) The parcel number of the property; 94

(b) The common address of the property; 95

(c) The date of the recording of the transfer of the 96  
property to the owner or electing subdivision; 97

(d) The charge allegedly placed in violation of division 98  
(A) (2) of this section. 99

(4) Each director or other official or body that assesses 100  
water rents or charges shall determine the actual amount of 101  
rents due based upon an actual reading of each customer's meter 102  
at least once in each three-month period, and at least quarterly 103  
the director or other official or body shall render a bill for 104  
the actual amount shown by the meter reading to be due, except 105

estimated bills may be rendered if access to a customer's meter 106  
was unobtainable for a timely reading. Each director or other 107  
official or body that assesses water rents or charges shall 108  
establish procedures providing fair and reasonable opportunity 109  
for resolution of billing disputes. 110

(5) When property to which water service is provided is 111  
about to be sold, any party to the sale or the agent of any such 112  
party may request the director or other official or body to read 113  
the meter at that property and to render within ten days 114  
following the date on which the request is made, a final bill 115  
for all outstanding rents and charges for water service. Such a 116  
request shall be made at least fourteen days prior to the 117  
transfer of the title of such property. 118

(6) At any time prior to a certification under division 119  
(A) (1) (a) of this section, the director or other official or 120  
body shall accept any partial payment of unpaid water rents or 121  
charges, in the amount of ten dollars or more. 122

(B) (1) When title to a parcel of land that is subject to 123  
any of the actions described in division (A) (1) of this section 124  
is transferred to a county land reutilization corporation, any 125  
lien placed on the parcel under division (A) (1) (a) of this 126  
section shall be extinguished, and the corporation shall not be 127  
held liable for unpaid rents or charges in any collection action 128  
brought under division (A) (1) (b) of this section, if the rents 129  
or charges certified under division (A) (1) (a) of this section or 130  
subject to collection under division (A) (1) (b) of this section 131  
were incurred before the date of the transfer to the corporation 132  
and if the corporation did not incur the rents or charges, 133  
regardless of whether the rents or charges were certified, the 134  
lien was attached, or the action was brought before the date of 135

transfer. In such a case, the 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 such collection action.

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

(2) If a lien placed on a parcel is extinguished as provided in division (B) (1) of this section, the municipal corporation may pursue the remedy available under division (A) (1) (b) of this section to recoup the rents and charges incurred with respect to the parcel from any owner, tenant, or other person liable to pay such rents and charges.

**Sec. 6103.02.** (A) For the purpose of preserving and promoting the public health and welfare, a board of county commissioners may acquire, construct, maintain, and operate any public water supply facilities within its county for one or more sewer districts and may provide for their protection and prevent their pollution and unnecessary waste. The board may negotiate and enter into a contract with any public agency or any person for the management, maintenance, operation, and repair of the facilities on behalf of the county, upon the terms and conditions as may be agreed upon with the agency or person and as may be determined by the board to be in the interests of the

county. By contract with any public agency or any person 166  
operating public water supply facilities within or without its 167  
county, the board also may provide a supply of water to a sewer 168  
district from the facilities of the public agency or person. 169

(B) The county sanitary engineer or sanitary engineering 170  
department, in addition to other assigned duties, shall assist 171  
the board in the performance of its duties under this chapter 172  
and shall be charged with other duties and services in relation 173  
to the board's duties as the board prescribes. 174

(C) The board may adopt, publish, administer, and enforce 175  
rules for the construction, maintenance, protection, and use of 176  
county-owned or county-operated public water supply facilities 177  
outside municipal corporations and of public water supply 178  
facilities within municipal corporations that are owned or 179  
operated by the county or that are supplied with water from 180  
water supply facilities owned or operated by the county, 181  
including, but not limited to, rules for the establishment and 182  
use of any connections, the termination in accordance with 183  
reasonable procedures of water service for nonpayment of county 184  
water rates and charges, and the establishment and use of 185  
security deposits to the extent considered necessary to ensure 186  
the payment of county water rates and charges. The rules shall 187  
not be inconsistent with the laws of the state or any applicable 188  
rules of the director of environmental protection. 189

(D) No public water supply facilities shall be constructed 190  
in any county outside municipal corporations by any person, 191  
except for the purpose of supplying water to those municipal 192  
corporations, until the plans and specifications for the 193  
facilities have been approved by the board. Construction shall 194  
be done under the supervision of the county sanitary engineer. 195

Any person constructing public water supply facilities shall pay 196  
to the county all expenses incurred by the board in connection 197  
with the construction. 198

(E) The county sanitary engineer or the county sanitary 199  
engineer's authorized assistants or agents, when properly 200  
identified in writing or otherwise and after written notice is 201  
delivered to the owner at least five days in advance or mailed 202  
at least five days in advance by first class or certified mail 203  
to the owner's tax mailing address, may enter upon any public or 204  
private property for the purpose of making, and may make, 205  
surveys or inspections necessary for the design or evaluation of 206  
county public water supply facilities. This entry is not a 207  
trespass and is not to be considered an entry in connection with 208  
any appropriation of property proceedings under sections 163.01 209  
to 163.22 of the Revised Code that may be pending. No person or 210  
public agency shall forbid the county sanitary engineer or the 211  
county sanitary engineer's authorized assistants or agents to 212  
enter, or interfere with their entry, upon the property for the 213  
purpose of making the surveys or inspections. If actual damage 214  
is done to property by the making of the surveys or inspections, 215  
the board shall pay the reasonable value of the damage to the 216  
property owner, and the cost shall be included in the cost of 217  
the facilities and may be included in any special assessments 218  
levied and collected to pay that cost. 219

(F) The board shall fix reasonable rates, including 220  
penalties for late payments, for water supplied to public 221  
agencies and persons when the source of supply or the facilities 222  
for its distribution are owned or operated by the county and may 223  
change the rates from time to time as it considers advisable. 224  
When the source of the water supply to be used by the county is 225  
owned by another public agency or person, the schedule of rates 226

to be charged by the public agency or person shall be approved 227  
by the board at the time it enters into a contract for the use 228  
of water from the public agency or person. 229

When the distribution facilities are owned by the county, 230  
the board also may fix reasonable charges to be collected for 231  
the privilege of connecting to the distribution facilities and 232  
may require that, prior to the connection, the charges be paid 233  
in full or, if determined by the board to be equitable in a 234  
resolution relating to the payment of the charges, may require 235  
their payment in installments, as considered adequate by the 236  
board, at the times, in the amounts, and with the security, 237  
carrying charges, and penalties as may be determined by the 238  
board in that resolution to be fair and appropriate. No public 239  
agency or person shall be permitted to connect to those 240  
facilities until the charges have been paid in full or provision 241  
for their payment in installments has been made. If the 242  
connection charges are to be paid in installments, the board 243  
shall certify, to the county auditor, information sufficient to 244  
identify each parcel of property served by a connection and, 245  
with respect to each parcel, the total of the charges to be paid 246  
in installments, the amount of each installment, and the total 247  
number of installments to be paid. The county auditor shall 248  
record and maintain the information so supplied in the 249  
waterworks record provided for in section 6103.16 of the Revised 250  
Code until the connection charges are paid in full. The board 251  
may include amounts attributable to connection charges being 252  
paid in installments in its billings of rates and other charges 253  
for water supplied. In addition, the board may consider payments 254  
made to a school district under section 6103.25 of the Revised 255  
Code when the board establishes rates and other charges for 256  
water supplied. 257

A board may establish discounted rates or charges or may 258  
establish another mechanism for providing a reduction in rates 259  
or charges for persons who are sixty-five years of age or older. 260  
The board shall establish eligibility requirements for such 261  
discounted or reduced rates or charges, including a requirement 262  
that a person be eligible for the homestead exemption or qualify 263  
as a low- and moderate-income person. 264

(G) When any rates or charges are not paid when due, the 265  
board may do any or all of the following: 266

(1) Certify the unpaid rates or charges, together with any 267  
penalties, to the county auditor. The county auditor shall place 268  
the certified amount ~~upon~~on the real property tax list and 269  
duplicate against the property served by the connection if the 270  
auditor also receives from the board additional certification of 271  
one of the following: 272

(a) The property has not been sold to a new owner after 273  
the date the unpaid water rates or charges became due. 274

(b) The property has been sold since the date the unpaid 275  
water rates or charges became due, and neither party to the most 276  
recent sale, either directly or through their agents: 277

(i) Made a timely request for a final bill to be rendered 278  
for all outstanding rates or charges for water service under 279  
division (G) (4) of this section; or 280

(ii) Paid the outstanding rates or charges on the final 281  
bill rendered under division (G) (4) of this section. ~~The~~ 282

The certified amount shall be a lien on the property from 283  
the date placed on the real property tax list and duplicate and 284  
shall be collected in the same manner as taxes, except that, 285  
notwithstanding section 323.15 of the Revised Code, a county 286

treasurer shall accept a payment in that amount when separately 287  
tendered as payment for the full amount of the unpaid rates or 288  
charges and associated penalties. The lien shall be released 289  
immediately upon payment in full of the certified amount. 290

(2) Collect the unpaid rates or charges, together with any 291  
penalties, by actions at law in the name of the county from an 292  
owner, tenant, or other person or public agency that is liable 293  
for the payment of the rates or charges; 294

(3) Terminate, in accordance with established rules, the 295  
water service to the particular property unless and until the 296  
unpaid rates or charges, together with any penalties, are paid 297  
in full; 298

(4) Apply, to the extent required, any security deposit 299  
made in accordance with established rules to the payment of the 300  
unpaid rates and charges, together with any penalties, for water 301  
service to the particular property. 302

All moneys collected as rates, charges, or penalties fixed 303  
or established in accordance with division (F) of this section 304  
for water supply purposes in or for any sewer district shall be 305  
paid to the county treasurer and kept in a separate and distinct 306  
water fund established by the board to the credit of the 307  
district. 308

Each board that fixes water rates or charges may render 309  
estimated bills periodically, provided that at least quarterly 310  
it shall schedule an actual reading of each customer's meter so 311  
as to render a bill for the actual amount shown by the meter 312  
reading to be due, with credit for prior payments of any 313  
estimated bills submitted for any part of the billing period, 314  
except that estimated bills may be rendered if a customer's 315

meter is not accessible for a timely reading or if the 316  
circumstances preclude a scheduled reading. Each board also 317  
shall establish procedures providing a fair and reasonable 318  
opportunity for the resolution of billing disputes. 319

When property to which water service is provided is about 320  
to be sold, any party to the sale or an agent of a party may 321  
request the board to have the meter at that property read and to 322  
render, within ten days following the date on which the request 323  
is made, a final bill for all outstanding rates and charges for 324  
water service. The request shall be made at least fourteen days 325  
prior to the transfer of the title of the property. 326

At any time prior to a certification under division (G) (1) 327  
of this section, the board shall accept any partial payment of 328  
unpaid water rates or charges in the amount of ten dollars or 329  
more. 330

Except as otherwise provided in any proceedings 331  
authorizing or providing for the security for and payment of any 332  
public obligations, or in any indenture or trust or other 333  
agreement securing public obligations, moneys in the water fund 334  
shall be applied first to the payment of the cost of the 335  
management, maintenance, and operation of the water supply 336  
facilities of, or used or operated for, the sewer district, 337  
which cost may include the county's share of management, 338  
maintenance, and operation costs under cooperative contracts for 339  
the acquisition, construction, or use of water supply facilities 340  
and, in accordance with a cost allocation plan adopted under 341  
division (H) of this section, payment of all allowable direct 342  
and indirect costs of the district, the county sanitary engineer 343  
or sanitary engineering department, or a federal or state grant 344  
program, incurred for the purposes of this chapter, and shall be 345

applied second to the payment of debt charges payable on any 346  
outstanding public obligations issued or incurred for the 347  
acquisition or construction of water supply facilities for or 348  
serving the district, or for the funding of a bond retirement or 349  
other fund established for the payment of or security for the 350  
obligations. Any surplus remaining may be applied to the 351  
acquisition or construction of those facilities or for the 352  
payment of contributions to be made, or costs incurred, for the 353  
acquisition or construction of those facilities under 354  
cooperative contracts. Moneys in the water fund shall not be 355  
expended other than for the use and benefit of the district. 356

(H) A board of county commissioners may adopt a cost 357  
allocation plan that identifies, accumulates, and distributes 358  
allowable direct and indirect costs that may be paid from the 359  
water fund of the sewer district created pursuant to division 360  
(G) of this section, and that prescribes methods for allocating 361  
those costs. The plan shall authorize payment from the fund of 362  
only those costs incurred by the district, the county sanitary 363  
engineer or sanitary engineering department, or a federal or 364  
state grant program, and those costs incurred by the general and 365  
other funds of the county for a common or joint purpose, that 366  
are necessary and reasonable for the proper and efficient 367  
administration of the district under this chapter. The plan 368  
shall not authorize payment from the fund of any general 369  
government expense required to carry out the overall 370  
governmental responsibilities of a county. The plan shall 371  
conform to United States office of management and budget 372  
Circular A-87, "Cost Principles for State, Local, and Indian 373  
Tribal Governments," published May 17, 1995. 374

**Section 2.** That existing sections 743.04 and 6103.02 of 375  
the Revised Code are hereby repealed. 376