

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 104

**Senator Tavares
Cosponsor: Senator Williams**

A BILL

To amend sections 505.86 and 3929.86 of the Revised Code to provide owners and lienholders of insecure, unsafe, or structurally defective or unfit buildings with a right to a hearing before the board of township trustees proceeds to remove, repair, or secure the buildings. 1
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 505.86 and 3929.86 of the Revised Code be amended to read as follows: 7
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Sec. 505.86. (A) As used in this section, ~~"total:~~ 9

"Party of interest" means an owner of record of the real property on which the building or structure is located, and includes a holder of a legal or equitable lien of record on the real property or the building or other structure. 10
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"Total cost" means any costs incurred due to the use of employees, materials, or equipment of the township, any costs arising out of contracts for labor, materials, or equipment, and costs of service of notice or publication required under this section. 14
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(B) A board of township trustees may provide for the removal, repair, or securance of buildings or other structures in the township that have been declared insecure, unsafe, or structurally defective by any fire department under contract with the township or by the county building department or other authority responsible under Chapter 3781. of the Revised Code for the enforcement of building regulations or the performance of building inspections in the township, or buildings or other structures that have been declared unfit for human habitation by the board of health of the general health district of which the township is a part.

~~At least thirty days prior to the removal, repair, or securance of any insecure, unsafe, or structurally defective building, the~~ (C) (1) The board of township trustees shall give notice by certified mail-, return receipt requested, to each party of interest of its intention with respect to the removal, repair, or securance of an insecure, unsafe, or structurally defective or unfit building or other structure to the holders of legal or equitable liens of record upon the real property on which the building is located and to owners of record of the property. The notice shall include a statement informing the parties in interest that each party in interest is entitled to a hearing if the party in interest in writing requests a hearing within thirty days after the day on which the notice was mailed.

~~If the owner's address~~ the address of a party of interest is unknown and cannot reasonably be obtained, it is sufficient to publish the notice once a week for three consecutive weeks in a newspaper of general circulation in the township and county in which the insecure, unsafe, or structurally defective or unfit building or other structure is located.

(2) If a party timely requests a hearing, the board shall 49
set the date, time, and place for the hearing and notify the 50
party in interest by certified mail, return receipt requested. 51
The date set for the hearing shall be within fifteen days, but 52
not earlier than seven days, after the party in interest has 53
requested a hearing, unless otherwise agreed to by both the 54
board and the party in interest. At the hearing, the party in 55
interest may appear in person, may be represented by an 56
attorney, and may present evidence and make arguments to show 57
that the board's intention with regard to the removal, repair, 58
or securance of the building or other structure is not 59
reasonable or justifiable in fact or in accordance with law. The 60
hearing shall be recorded by stenographic or electronic means. 61

(3) The board shall make an order deciding the matter not 62
later than thirty days after a hearing, or not later than thirty 63
days after mailing notice to the parties in interest if no party 64
in interest requested a hearing. The order may dismiss the 65
matter or direct the removal, repair, or securance of the 66
building or other structure. The board shall prepare a written 67
memorandum of its order that explains the order and the 68
reasoning therefor. At any time, a party in interest may consent 69
to an order. 70

(4) A party in interest who requested and participated in 71
a hearing, and who is adversely affected by the order of the 72
board, may appeal the order under section 2506.01 of the Revised 73
Code. 74

(5) If an insecure, unsafe, or structurally defective or 75
unfit building or other structure creates a hazard jeopardizing 76
public health or safety, the removal, repair, or securance of 77
which will not admit of delay, the board may proceed to remove, 78

repair, or secure the building or other structure without 79
complying with divisions (C) (1) to (3) of this section. However, 80
as soon as reasonably possible after beginning such an emergency 81
removal, repair, or securance, the board shall comply with 82
divisions (C) (1) to (3) of this section. 83

~~The owners of record of the property or the holders of~~ 84
~~liens of record upon the property~~ (D) At any time, a party in 85
interest may enter into an agreement with the board of township 86
trustees to perform the removal, repair, or securance of the 87
insecure, unsafe, or structurally defective or unfit building or 88
other structure. If an emergency exists, as determined by the 89
board, notice may be given other than by certified mail and less 90
than thirty days prior to the removal, repair, or securance. The 91
board may incorporate such an agreement by reference into its 92
order under division (C) (3) of this section. 93

~~(C) A~~ (E) The board of township trustees may collect the 94
total cost of removing, repairing, or securing buildings or 95
other structures that have been declared insecure, unsafe, 96
structurally defective, or unfit for human habitation, or of 97
making emergency corrections of hazardous conditions, by either 98
of the following methods: 99

(1) The board may have the fiscal officer of the township 100
certify the total costs, together with a proper description of 101
the lands to the county auditor who shall place the costs upon 102
the tax duplicate. The costs are a lien upon the lands from and 103
after the date of entry. The costs shall be collected as other 104
taxes and returned to the township general fund. 105

(2) The board may commence a civil action to recover the 106
total costs from ~~the owner~~ a party in interest. 107

~~(D)~~-(F) Any board of township trustees may, whenever a 108
policy or policies of insurance are in force providing coverage 109
against the peril of fire on a building or structure and the 110
loss agreed to between the named insured or insureds and the 111
company or companies is more than five thousand dollars and 112
equals or exceeds sixty per cent of the aggregate limits of 113
liability on all fire policies covering the building or 114
structure on the property, accept security payments and follow 115
the procedures of divisions (C) and (D) of section 3929.86 of 116
the Revised Code. 117

Sec. 3929.86. (A) No insurance company doing business in 118
this state shall pay a claim of a named insured for fire damage 119
to a structure located within a municipal corporation or 120
township in this state where the amount recoverable for the fire 121
loss to the structure under all policies exceeds five thousand 122
dollars, unless the company is furnished with a certificate 123
pursuant to division (B) of this section, and unless there is 124
compliance with the procedures set forth in divisions (C) and 125
(D) of this section. 126

(B) (1) The county treasurer, upon the written request of 127
the named insured specifying the tax description of the property 128
and the date agreed upon by the insurance company and the named 129
insured as the date of the receipt of a proof of loss of the 130
claim, shall furnish the named insured, to be supplied by the 131
named insured to the company, either: 132

(a) A certificate to the effect that, as of the date 133
specified in the request, there are no delinquent taxes, 134
assessments, penalties, or charges against the property and 135
that, as of the date of the treasurer's certificate, no 136
municipal corporation or township has certified to the auditor 137

any amount as total costs incurred by the municipal corporation 138
or township for removal, repair, or securing of buildings or 139
structures on the property pursuant to section 715.261 or 505.86 140
of the Revised Code; 141

(b) A certificate and bill showing the amount of 142
delinquent taxes, assessments, penalties, and charges against 143
the property as of the date specified in the request that have 144
not been paid as of the date of the certificate and also 145
showing, as of the date of the treasurer's certificate, the 146
amount of the total costs, if any, incurred by a municipal 147
corporation or township for removal, repair, or securing of 148
buildings or structures on the property that have been certified 149
to the county auditor under section 715.261 or 505.86 of the 150
Revised Code. The county auditor shall, for the purposes of 151
division (B) of this section, certify to the treasurer the total 152
amount, if any, of such costs certified to the auditor by the 153
municipal corporation or township. 154

(2) (a) Upon the receipt of a certificate pursuant to 155
division (B) (1) (a) of this section, the insurance company shall 156
pay the claim of the named insured in accordance with the policy 157
terms, unless the loss agreed to between the named insured or 158
insureds and the company or companies equals or exceeds sixty 159
per cent of the aggregate limits of liability on all fire 160
policies covering the building or structure. In the case of such 161
a loss, the insurance company, the insured property owner, and 162
the municipal corporation or township shall follow the 163
procedures set forth in divisions (C) and (D) of this section. 164

(b) Upon the receipt of a certificate and bill pursuant to 165
division (B) (1) (b) of this section, the insurance company shall 166
return the bill to the treasurer and transfer to the county 167

treasurer an amount from the insurance proceeds necessary to pay 168
such taxes, assessments, penalties, charges, and costs as shown 169
on the bill. Notwithstanding section 323.15 of the Revised Code, 170
the treasurer shall receive such amount and apply or credit it 171
to payment of the items shown in the bill. 172

(C) When the loss agreed to between the named insured or 173
insureds and the company or companies equals or exceeds sixty 174
per cent of the aggregate limits of liability on all fire 175
policies covering the building or structure, the insurance 176
company or companies, in accordance with division (F) of section 177
715.26 or division ~~(D)~~ (F) of section 505.86 of the Revised 178
Code, shall transfer from the insurance proceeds to the 179
designated officer of the municipal corporation or township in 180
the aggregate two thousand dollars for each fifteen thousand 181
dollars, and each fraction of that amount, of a claim, or, if, 182
at the time of a proof of loss agreed to between the named 183
insured or insureds and the insurance company or companies, the 184
named insured or insureds have submitted a contractor's signed 185
estimate of the costs of removing, repairing, or securing the 186
building or other structure, shall transfer from the insurance 187
proceeds the amount specified in the estimate. 188

The transfer of proceeds shall be on a pro rata basis by 189
all companies insuring the building or other structure. Policy 190
proceeds remaining after the transfer to the municipal 191
corporation or township shall be disbursed in accordance with 192
the policy terms. 193

The named insured or insureds may submit a contractor's 194
signed estimate of the costs of removing, repairing, or securing 195
the building or other structure after the transfer, and the 196
designated officer shall return the amount of the fund in excess 197

of the estimate to the named insured or insureds, provided that 198
the municipal corporation or township has not commenced to 199
remove, repair, or secure the building or other structure. 200

This division only applies to municipal corporations or 201
townships that have adopted a resolution, ordinance, or 202
regulation authorizing the procedure described in divisions (C) 203
and (D) of this section and have filed a certified copy of the 204
resolution, ordinance, or regulation for public record with the 205
superintendent of insurance, and applies only to fire losses 206
that occur after the filing of the certified copy. The 207
resolution, ordinance, or regulation shall designate the officer 208
authorized to carry out the duties of this section. 209

(D) Upon receipt of proceeds by the municipal corporation 210
or township as authorized by this section, the designated 211
officer shall place the proceeds in a separate fund to be used 212
solely as security against the total cost of removing, 213
repairing, or securing incurred by the municipal corporation or 214
township pursuant to section 715.261 or 505.86 of the Revised 215
Code. 216

When transferring the funds as required in division (C) of 217
this section, an insurance company shall provide the municipal 218
corporation or township with the name and address of the named 219
insured or insureds, whereupon the municipal corporation or 220
township shall contact the named insured or insureds, certify 221
that the proceeds have been received by the municipal 222
corporation or township, and notify them that the following 223
procedures will be followed: 224

The fund shall be returned to the named insured or 225
insureds when repairs, removal, or securing of the building or 226
other structure have been completed and the required proof has 227

been received by the designated officer, if the municipal 228
corporation or township has not incurred any costs for the 229
repairs, removal, or securing. However, the fund shall be 230
returned to the named insured or insureds no later than sixty 231
days after the designated officer receives the required proof. 232
If the municipal corporation or township has incurred any costs 233
for repairs, removal, or securing of the building or other 234
structure, the costs shall be paid from the fund, and if excess 235
funds remain, the municipal corporation or township shall 236
transfer, no later than sixty days after all such costs have 237
been paid, the remaining funds to the named insured or insureds. 238
Nothing in this section shall be construed to limit the ability 239
of a municipal corporation or township to recover any deficiency 240
under section 715.261 or 505.86 of the Revised Code. 241

Nothing in this division shall be construed to prohibit 242
the municipal corporation or township and the named insured or 243
insureds from entering into an agreement that permits the 244
transfer of funds to the named insured or insureds if some other 245
reasonable disposition of the damaged property has been 246
negotiated. 247

(E) Proof of payment by the company or companies of 248
proceeds under a policy in accordance with division (C) of this 249
section is conclusive evidence of the discharge of its 250
obligation to the insured under the policy to the extent of the 251
payment and of compliance by the company or companies with 252
division (C) of this section. 253

(F) Nothing in this section shall be construed to make an 254
insurance company liable for any amount in excess of proceeds 255
payable under its insurance policy or for any other act 256
performed pursuant to this section, or to make a municipal 257

corporation, township, or public official an insured under a 258
policy of insurance, or to create an obligation to pay 259
delinquent property taxes or unpaid removal liens or expenses 260
other than as provided in this section. 261

(G) An insurance company making payment of policy proceeds 262
under this section for delinquent taxes or structure removal 263
liens or removal expenses incurred by a municipal corporation or 264
township shall have the full benefit of such payment including 265
all rights of subrogation and of assignment. 266

(H) As used in this section and section 3929.87 of the 267
Revised Code, "insurance company" or "insurer" includes the Ohio 268
fair plan underwriting association as established in section 269
3929.43 of the Revised Code. 270

(I) This section shall be liberally construed to 271
accomplish its purpose to deter the commission of arson and 272
related crimes, to discourage the abandonment of property, and 273
to prevent urban blight and deterioration. 274

Section 2. That existing sections 505.86 and 3929.86 of 275
the Revised Code are hereby repealed. 276