

As Introduced

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

S. B. No. 99

**Senator Brown
Cosponsors: Senators Beagle, Seitz, Tavares, Yuko**

A BILL

To amend sections 743.04 and 6103.02 of the Revised Code regarding property liens for unpaid county or municipal water service charges. 1
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 743.04 and 6103.02 of the Revised Code be amended to read as follows: 4
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Sec. 743.04. (A) For the purpose of paying the expenses of conducting and managing the waterworks of a municipal corporation, including operating expenses and the costs of permanent improvements, the director of public service or any other city official or body authorized by charter may assess and collect a water rent or charge of sufficient amount and in such manner as the director, other official, or body determines to be most equitable from all tenements and premises supplied with water. 6
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(1) When water rents or charges are not paid when due, the director or other official or body may do either or both of the following: 15
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(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