

**As Introduced**

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

**S. B. No. 104**

**Senator Tavares  
Senator Williams**

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**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.

**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:

**Sec. 505.86.** (A) As used in this section, ~~"total:~~

"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.

"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.

(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