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## LOCAL GOVERNMENT

### County officials present in office

- Requires a county officer to appear at the officer's principal office location at least one day out of any 30-day period to satisfy the officer's duties.
- Decreases from 90 to 30 the number of days after which the office of county auditor or county treasurer becomes vacant if the auditor or treasurer fails to perform their duties.

### County employee cash awards

- Limits the total amount of cash awards per county employee per calendar year to 10% of the employee's annual compensation, but permits the board of county commissioners to approve a higher amount.

### County budget commission membership

- Removes the county prosecutor from the county budget commission and makes the president of the board of county commissioners a member instead.

### County engineer

- Changes, from 100% to a range of 80-100%, the supplemental compensation amount a county engineer receives to perform the duties of county engineer in another county during a vacancy.

### County coroner

- Changes the county coroner from being elected by voters to appointed by the board of county commissioners.
- Specifies that current county coroners who were elected may complete the remainder of their terms.
- Replaces the county coroner with the county auditor as the county official to fill in when two county commissioners are absent.

### County nonemergency patient transport services

- Increases the population limit of a county at or under which a county may operate a nonemergency medical transport service organization.

### Township zoning

- Exempts township zoning amendments related to megaprojects from the zoning referendum process.

### Village dissolution evaluation

- Adds electric services to the list of services that may be counted when evaluating whether a village has provided the necessary number of services, and therefore, may not be subject to an automatic ballot question on village dissolution.

## **Local fiscal emergency receivership**

- Establishes a process for the creation of a receivership for counties, townships, and municipal corporations in fiscal emergency.

## **Local option election for alcohol sales**

- Requires a petitioner of a local option election for alcohol sales to pay the entire cost of an election if it is held on a day other than the day of a primary election, general election, or special election of a political subdivision for a question or issue, nomination for office, or election to office.

## **Political subdivision communications**

- Subjects chartered counties and municipal corporations to the requirements of an existing law that prohibits a political subdivision from using public funds to finance certain communications or from paying its staff for time spent on certain political activities.

## **Board of park commissioners of a park district**

- Makes the following changes for a board of park commissioners of a park district that was a township park district created before 1892 and converted into a park district under R.C. 1545.041 on or before January 1, 1989:
  - Changes the appointing authority from the probate judge to the board of county commissioners;
  - Expands the board from three to five members;
  - Specifies qualifications for members of the board;
  - Specifies that current members of an affected board may complete the balance of the member's term.

## **Eminent domain and recreational trails**

- Establishes that the taking of property for recreational trails does not satisfy the public use requirement of Ohio's eminent domain law.

## **Ohio Housing Trust Fund (OHTF)**

- Removes the requirement that certain fees collected by county recorders be deposited into the Ohio Housing Trust Fund (OHTF).
- Permits counties to use fees previously allocated to the OHTF for housing-related purposes determined by the board of county commissioners.

## **Battery-charged fences**

- Eliminates state law requirements concerning the installation and operation of battery-charged fences on private nonresidential property.

- Prohibits local governments from adopting or enforcing battery-charged fence regulations that expressly, implicitly, or functionally prohibit the installation, operation, or use of battery-charged fences that meet certain criteria.

## **Manufactured and mobile homes**

- Removes references to “recreational vehicles” throughout the Forcible Entry and Detainer Law, thereby limiting causes of action brought by park operators to manufactured and mobile homes.
- Requires the titled owner of a manufactured or mobile home to be joined as a defendant in any eviction proceeding against a resident of a manufactured home park who is not the titled owner.
- Requires notice of an eviction action to be served upon the titled owner by leaving a copy at the premises from which the resident is sought to be evicted and by ordinary mail, if the owner’s address is known by the park operator.
- Eliminates the requirement that the park operator provide notice to remove a manufactured or mobile home to an evicted resident of the manufactured home park who is not the titled owner of the home.
- Requires the clerk of courts to provide title information to the park operator to facilitate the park operator’s search for persons with a right, title, or interest in manufactured or mobile home.
- Reduces from 21 days to 14 days the time within which the titled owner of a manufactured or mobile home must remove the home from the manufactured home park.
- Requires persons other than the titled owner to pay all rent and storage fees to the park operator within 21 days after receiving notice of the eviction rather than when the home is sold and specifies that failure to pay the rent and storage fees results in forfeiture of the person’s interest in the home.
- Requires that the notice sent by the park operator to any person of interest specify the amount of fees owed, the method by which to pay the fees, and information on how to contact the titled owner for the sale or removal of the home.
- Requires an estate in probate with an interest in the home to pay rent during the pendency of the probate administration.
- Allows a park operator to store a manufactured or mobile home at a storage facility or at another location within the manufactured home park immediately, rather than waiting 90 days after the titled owner’s death.
- Allows the park operator to request title to the manufactured or mobile home if no probate court has granted administration with respect to the titled owner’s estate within 21 days after the owner is notified to remove the home.

- Specifies that a park operator need only publish notice of pending abandoned manufactured home proceedings if the titled owner is deceased and that the notice is weekly.
- Increases from \$3,000 to \$10,000 the value threshold for when an abandoned manufactured or mobile home must be sold at auction rather than conveyed to the park operator.
- Increases, from 15 days to 30 days, the time within which the county auditor must confirm whether the auditor agrees or disagrees with the park operator's stated value of the home.
- Specifies that, if the county auditor does not timely agree or disagree with the park operator's valuation, the proceedings continue as though the county auditor agreed.
- Allows the park operator to appeal the county auditor's disagreement with the park operator's stated value of the manufactured or mobile home.
- Specifies that the county auditor's agreement or disagreement is not an official appraisal for tax purposes and is not admissible as evidence in any proceeding before a board of revision or board of tax appeals.
- Replaces references to "a writ of execution" with "an order on the judgment" and modifies the information that must be included in the order.
- Requires that the filing fee for such an order not exceed the court's standard motion fee.
- Requires the home to be offered for sale one time, instead of two times, before the plaintiff can obtain title to the abandoned home.
- Requires that all bidders who intend to reside in the park after the sale must apply for residency with the park and be approved for residency at least seven days prior to the date of the sale.
- Exempts the transfer of title of the abandoned manufactured or mobile home to the park operator from the title transfer fee charged by the county auditor.
- Exempts manufactured homes that a destroyed by the park operator within one year after the park operator taking possession through a Forcible Entry and Detainer action from manufactured home taxes that would otherwise apply for the period before the home was destroyed.

## **County officials present in office**

(R.C. 305.03)

The bill modifies the law regarding vacancy in county offices. Currently, if a county officer fails to perform the duties of their office for 90 consecutive days (30 consecutive days in the case of county auditors and county treasurers), the office is deemed vacant by operation of law. The bill modifies this in two ways. First, the bill subjects all county officials to the 30-day standard.

Second, the bill specifies that appearing at the officer's principal office location on at least one day out of 30 consecutive days is a duty of office, thus requiring an officer to appear at their principal office location at least one day out of any 30-day period to avoid vacating the office.

## **County employee cash awards**

(R.C. 325.25)

Continuing law allows county departments to establish programs to recognize outstanding employee performance. The bill places an annual limit on the total amount of cash awards given to an employee under a program: 10% of an employee's annual compensation. The board of county commissioners can approve a higher amount.

## **County budget commission membership**

(R.C. 5705.27)

The bill removes the county prosecutor from the county budget commission and makes the president of the board of county commissioners a member instead. Under continuing law, each county has a budget commission whose function is to review and, in some cases, adjust the budgets and taxing authority of local governments within the county.

## **County engineer**

(R.C. 305.021)

Continuing law allows a county engineer to perform the duties of county engineer in another county when that county is experiencing a vacancy. The bill changes the supplemental compensation amount a county engineer receives from the county, from 100% under current law to a range of 80 - 100% under the bill.

## **County coroner**

(R.C. 313.01 and 305.03; conforming changes in R.C. 305.02, 313.02, and 313.04; Section 703.10)

The bill changes the county coroner from being elected by voters to appointed by the board of county commissioners. Additionally, the bill specifies that current county coroners who were elected may complete the remainder of their terms. Under continuing law, the county coroner serves a four-year term that begins on the first Monday of January after the appointment. If a vacancy occurs in the coroner's office for any cause, the board of county commissioners must appoint a successor for the remainder of the term. Under continuing law, for the period of time between a vacancy and appointing a successor, the board of county commissioners may contract with another county's coroner to perform the functions of the coroner's office that is vacant.

The bill also replaces the county coroner with the county auditor as the county official to fill in when two county commissioners are absent. Under continuing law, if at any time two county commissioners are absent from office due to sickness or injury and have filed a certificate required under law of the sickness or injury, a county official must serve as county commissioner until at least one county commissioner is no longer absent.

## **County nonemergency patient transport services**

(R.C. 307.05)

The bill increases the population limit to 60,000 or less for which a county may operate a nonemergency transport service organization, contract for nonemergency patient transport services, and furnish or obtain the interchange of such services. Under current law, a county with a population of 40,000 or less may do so.

## **Township zoning**

(R.C. 519.12)

Continuing law subjects township zoning amendments to a referendum process; a proposed amendment takes effect in 30 days unless a referendum petition with sufficient signatures forces a ballot issue to approve or deny the proposed amendment. The bill exempts proposed zoning amendments related to megaprojects from this referendum process. Instead, the zoning amendment would take effect immediately. The bill does not modify the nearly-identical county provision, R.C. 303.12.

## **Village dissolution evaluation**

(R.C. 703.331)

The bill adds electric services to the list of services that may be counted when evaluating whether a village has provided the necessary number of services, and therefore, may not be subject to an automatic ballot question on village dissolution. Under continuing law, a village must provide, contract with a private nongovernmental entity or a regional council of governments that includes three or more political subdivisions at least two of which are municipal corporations, to provide, at least five specified services. Other eligible services under current law are police protection; fire-fighting services; garbage collection; water service; sewer service; emergency medical services; road maintenance; park services or other recreation services; human services; and a public library established and operated solely by the village. Under continuing law, in order to avoid an automatic ballot question, a village must also have at least one candidate on the ballot for each elected village position.

## **Local fiscal emergency receivership**

(R.C. 118.29 and 2743.03)

Continuing law provides a framework for identifying and addressing financial crises in counties, townships, and municipalities by outlining conditions for fiscal watch, fiscal caution, and fiscal emergency status and efforts to overcome those conditions. The bill establishes a process for the creation of a receivership for a county, township, or municipal corporation that is in fiscal emergency. The process begins with a referral from the financial supervisor, or the board of county commissioners, board of township trustees, or legislative authority to the Attorney General if both of the following conditions are met:

- The county, township, or municipal corporation has been in a state of fiscal emergency for a continuous period of ten years, or it has been in a state of fiscal emergency at least

twice in a period of ten years and the combined period of fiscal emergency is at least five years.

- The county, township, or municipal corporation, has demonstrated one or more of the following, as determined by the financial supervisor (these can be retroactive):
  - Failure to comply with the Ohio's budgetary and spending laws;
  - Failure to ensure that appropriations comply with the financial plan;
  - Assuming debt without the approval of the financial planning and supervision commission;
  - Undertaking administrative or legislative action that is not in accordance with the terms of the financial plan or, when applicable, without permission of the commission.

Upon receiving a referral, the Attorney General promptly must file a petition for a receivership with the court of claims. The judge that has served the longest on the court as of the date the petition is filed promptly must appoint a receiver. With the approval of the court, the receiver can request reasonable fees for work performed, specifically including costs associated with retaining legal counsel, accountants, or other similar advisors that the receiver considers necessary in the performance of the receiver's duties. The fees must be paid from funds appropriated to OBM during the period of fiscal emergency.

A receiver appointed under this section has all of the following powers and duties:

- Consult with the board of county commissioners, board of township trustees, or legislative authority of the municipal corporation to make recommendations or, if necessary, to assume responsibility for implementing cost reductions and revenue increases to achieve a balanced budget and carry out the financial plan, and to make reductions in force or spending to resolve the fiscal emergency conditions;
- Ensure the county, township, or municipal corporation in fiscal emergency complies with all aspects of the financial plan or, if no financial plan has been approved by the commission, the receiver must consult with the county, township, or municipal corporation and make recommendations, or assume, if necessary, the responsibility for crafting and submitting the financial plan to the commission;
- Ensure the county, township, or municipal corporation complies with any other relevant aspects of the fiscal emergency laws;
- Provide monthly, written reports about the progress toward resolving the conditions of fiscal emergency to the commission to the board of county commissioners, board of township trustees, or legislative authority and mayor or city manager of the municipal corporation;
- Appear at least quarterly to present information about progress toward resolving the conditions of fiscal emergency at an open meeting and, if allowable under the Ohio Open

Meetings Law, in executive session, of the board of county commissioners, board of township trustees, or legislative authority of the municipal corporation;

- Appear at least quarterly to present information about progress toward resolving the conditions of fiscal emergency at an open meeting and, if allowable under the Ohio Open Meetings Law, in executive session, of the financial planning and supervision commission of the county township, or the municipal corporation in fiscal emergency;
- At the receiver's initiative or upon invitation, attend executive sessions of the board of county commissioners, board of township trustees, or legislative authority of the municipal corporation;
- Exercise any other powers granted to the receiver by the court necessary to perform these duties.

If, in the judgment of the receiver, the criteria required to file for bankruptcy under the Federal Bankruptcy Act are satisfied and no reasonable alternative exists to eliminate the fiscal emergency condition within three years, the receiver can present findings and submit a written recommendation on filing for bankruptcy to the financial planning and supervision commission and the board of county commissioners, board of township trustees, or legislative authority of the municipal corporation. Beginning 60 days after submitting the recommendation, the receiver can initiate bankruptcy proceedings unless: (1) the board or legislative authority adopts an ordinance or resolution opposing the recommendation, which must include a plan to satisfy and discharge the debts and liabilities within seven years and promptly alleviate the fiscal emergency conditions using expenditure reductions or available and future tax revenue, and (2) the financial planning and supervision commission determines the plan is sufficient to satisfy and discharge the debts and liabilities included in the receiver's recommendation for bankruptcy within seven years of the adoption of the resolution and promptly alleviate the fiscal emergency conditions. If the commission determines that the plan is not sufficient, the receiver can initiate bankruptcy proceedings.

If the commission determines the plan is sufficient and the plan requires voted taxes, the board of county commissioners, board of trustees, or legislative authority of the municipal corporation must direct the board of elections to submit the tax question to the electors at the next general election or at a special election conducted on the day of the next primary election in the county, township, or municipal corporation occurring not less than 90 days after the resolution is certified to the board, as applicable under the provision authorizing the tax question. If the taxes are not approved by the electors, the receiver can initiate bankruptcy proceedings. If the taxes are approved by the electors, the board of county commissioners, board of trustees, or legislative authority of the municipal corporation must implement the plan to satisfy and discharge the debts and liabilities within seven years and promptly alleviate the fiscal emergency conditions.

The court terminates the receivership when the county, township, or municipal corporation has corrected and eliminated the fiscal emergency conditions and no new fiscal emergency conditions have occurred.



## Local option election for alcohol sales

(R.C. 3501.17)

A political subdivision must pay the entire cost of a special election held on a day other than on the day of a primary or general election and a share of the cost of conducting an election at which it has an item on the ballot if held on the day of a primary or general election. Costs are shared among the entities placing items on the ballot based on a statutory formula. The bill creates an exception to paying the cost of an election and requires a petitioner of a local option election for alcohol sales to pay the entire cost of an election if it is held on a day other than the day of a primary election, general election, or special election of a political subdivision seeking to submit a question or issue, nomination for office, or election to office.

## Political subdivision communications

(R.C. 9.03)

The bill subjects chartered counties and municipal corporations to the requirements of an existing law that prohibits a political subdivision from using public funds to finance certain communications. Currently, the law applies to all political subdivisions other than chartered counties and municipal corporations.

The statute, which the bill does not otherwise change, prohibits the governing body of a political subdivision from using public funds to publish, distribute, or otherwise communicate information that does any of the following (as noted below, existing law already prohibits a chartered subdivision from engaging in some of those actions):

- Contains defamatory, libelous, or obscene matter. Currently, officials of a chartered subdivision that did so could be sued for defamation (which includes libel) or prosecuted for pandering obscenity.<sup>173</sup>
- Promotes alcohol, tobacco, or any illegal product, service, or activity.
- Promotes illegal discrimination on the basis of race, color, religion, national origin, disability, age, or ancestry. Under existing law, a chartered subdivision that did so might be vulnerable to a discrimination action by its employees.<sup>174</sup>
- Supports or opposes any labor organization (union) or any action by, on behalf of, or against any labor organization. Depending on the circumstances, a chartered subdivision that did so with respect to its employees already might run afoul of Ohio's Public Employee Collective Bargaining Law.<sup>175</sup>
- Supports or opposes the nomination or election of a candidate for public office or the investigation, prosecution, or recall of a public official. A separate provision of continuing

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<sup>173</sup> R.C. 2907.32, not in the bill.

<sup>174</sup> R.C. 4112.02, not in the bill.

<sup>175</sup> R.C. 4117.11, not in the bill.

law prohibits any person, including the governing body of a chartered subdivision, from knowingly conducting a direct or indirect transaction of public funds to the benefit of a candidate or a political entity.

- Supports or opposes the passage of a levy or bond issue. As is mentioned above, continuing law prohibits a chartered county or municipal corporation from giving public funds to a political entity, such as a political action committee (PAC) organized to support a ballot issue. But, existing law *does* appear to allow a chartered county or municipal corporation to spend public funds on its own advertising regarding a levy or bond issue without going through a PAC. The bill prohibits that activity.

Additionally, the law prohibits the governing body of a political subdivision from compensating its employees for time spent on any activity to influence the outcome of an election regarding any candidate or any levy or bond issue.

- The home rule provisions of the Ohio Constitution give all municipal corporations, regardless of whether they are chartered, and all chartered counties the authority to exercise all powers of local self-government.<sup>176</sup> Under the Constitution, a municipal corporation or a chartered county might have the right to spend its funds for certain purposes, despite a state law to the contrary. It appears that Ohio's courts have not considered whether, for example, a city may use its home rule authority to spend public funds to promote a levy or bond issue. By eliminating the exemption for chartered subdivisions, the bill might make such a case more likely to come before the courts.

## **Board of park commissioners of a park district**

(R.C. 1545.05; Section 715.10)

The bill makes changes for members of a board of park commissioners of a park district that was a township park district created before 1892 and converted into a park district under R.C. 1545.041 on or before January 1, 1989. In general, laws are supposed to be of a general nature and have a uniform operation throughout the state. Laws that limit a statute's operation to a few geographic areas have been constitutional as long as there are no restrictions that prevent other geographic areas from qualifying in the future.<sup>177</sup>

The bill changes the appointing authority for the board from the probate judge to the board of county commissioners. The board of county commissioners must appoint park district members by a majority vote. Additionally, the bill requires the board of park commissioners to expand from three members to five. The board of park commissioners must consist of the following members:

- A member of the city council of the most populous city in the park district;
- A member of the village council of the most populous village in the park district;

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<sup>176</sup> Ohio Const., art. X, sec. 3 and art. XVIII, sec. 3.

<sup>177</sup> Ohio Const., art. II, sec. 26; See also *Assur v. Cincinnati*, 88 Ohio St. 181 (1913).

- A member of the board of township trustees of the most populous township in the park district;
- A member who is a citizen of the most populous township in the park district;
- A member who is a citizen of the most populous city in the park district.

If a park district with members of a board of park commissioners does not contain a city, village, or township, the probate judge must appoint remaining members in accordance with continuing law for all other park districts, which does not include specific qualifications for who may be appointed to a board of park commissioners. Additionally, the commissioners who are appointed must take office immediately and terms expire one, two, three, four, and five years respectively, from the first day of January next after the date of their appointment. Each successor appointed will serve a term of three years.

The bill adds, consistent with continuing law for all other park districts, that commissioners must take an oath to perform faithfully the duties of the office and give bond, approved by and filed with the county auditor, for that faithful performance in the amount of \$5,000 before taking office. The commissioners must serve without compensation but are permitted their actual and necessary expenses incurred in the performance of their duties.

### **Transition of current commissioners**

The bill specifies that, a member of a board of park commissioners of a park district who, before the effective date of the bill, was appointed to a board of commissioners of a park district that was a township park district created before 1892, and converted into a park district under R.C. 1545.041 on or before January 1, 1989, may complete the balance of the member's term. Any members appointed to a board of commissioners of a park district that was a township park district created before 1892, and converted into a park district under R.C. 1545.041 on or before January 1, 1989, after the effective date of the bill must be appointed as described above.

### **Eminent domain and recreational trails**

(R.C. 163.01)

Under continuing law, property can only be taken by appropriation, i.e., eminent domain, for a public use.<sup>178</sup> The bill alters the definition of public use by establishing that the taking of property for recreational trails does not satisfy this public use requirement. Recreational trails include trails for hiking, bicycling, horseback riding, ski touring, canoeing, or other nonmotorized forms of recreational travel.

### **Ohio Housing Trust Fund (OHTF)**

(R.C. 174.02, 317.36, and 319.63)

Continuing law prescribes the fees that county recorders are required to collect when recording documents like deeds, mortgages, powers of attorneys, and mechanic's liens. Under

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<sup>178</sup> R.C. 163.021(A), not in the bill.

current law, half of these fees are retained by the county and half are remitted to the Ohio Housing Trust Fund (OHTF). The bill instead allows counties to retain all of the fees. The portion formally allocated to the OHTF must be used for housing-related purposes determined by the board of county commissioners.

The bill retains the OHTF and the seven-member advisory committee that assists DEV and the Ohio Housing Finance Agency (OHFA) in defining housing needs and priorities and allocating OHTF funds. However, the recorder fees and investment earnings from those fees are the primary sources of revenue for the OHTF. For that reason, the OHTF-funded programs and the activities of the OHTF advisory committee will likely cease when the remaining balance is expended.

## **Battery-charged fences**

(R.C. 3781.1011)

Current law includes numerous safety standards concerning the installation and use of battery-charged fences on private nonresidential property. Furthermore, the law expressly authorizes counties, townships, and municipal corporations to (1) impose additional regulations that do not conflict with state law, (2) require a permit or fee for the use of a battery-charged fence, and (3) prohibit battery-charged fences that do not meet state law requirements. The bill eliminates the state safety standards and limits the authority of local governments to impose safety standards of their own.

Under the bill, no county, township, or municipal corporation may adopt or enforce an ordinance, order, resolution, or regulation that “expressly, implicitly, or functionally” prohibits the installation, operation or use of a battery-charged fence that meets certain conditions. The bill does not require battery-charged fences to comply with those conditions. It eliminates all state-level safety standards. Instead, the bill establishes a safe harbor in which certain battery-charged fences are not subject to local regulation. The table below compares the safe harbor conditions established by the bill to the safety standards prescribed by current law.

| <b>Comparison of Safety Standards to Safe Harbor</b>                                                                                                                                             |                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| <b>Safety standards<br/>(current law)</b>                                                                                                                                                        | <b>Safe harbor<br/>(under the bill)</b>                                                                                    |
| The fence must be connected to a monitored alarm system.                                                                                                                                         | Same.                                                                                                                      |
| The fence must have a battery-operated energizer that is powered by a commercial storage battery that is not more than 12 volts of direct current, and that meets the standards set forth by the | Similar, but the storage battery does not need to meet the standards set by the International Electrotechnical Commission. |

| Comparison of Safety Standards to Safe Harbor                                                                                                         |                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| Safety standards (current law)                                                                                                                        | Safe harbor (under the bill)                                                                                                                        |
| International Electrotechnical Commission.                                                                                                            |                                                                                                                                                     |
| The fence must be completely surrounded by a nonelectric perimeter fence or wall that is at least five feet tall.                                     | The fence must be four to twelve inches behind a nonbattery-charged perimeter fence, wall, or structure that is at least five feet in height.       |
| The fence must be no taller than ten feet, or two feet higher than the height of the nonbattery-charged perimeter fence or wall, whichever is higher. | The fence must be exactly ten feet in height, or two feet higher than the perimeter fence, whichever is higher.                                     |
| The fence must be marked with conspicuous warning signs, no more than 40 feet apart, that read "WARNING—ELECTRIC FENCE."                              | Similar, but requires the signs to be placed in intervals not exceeding 30 feet and to read: "WARNING – SHOCK HAZARD" or a similar warning message. |

The bill retains the authority of a county, township, or municipal corporation to require a permit or fee for the installation or use of a battery-charged fence or to prohibit or impose requirements on the installation, operation, or use of a fence that does not meet the safe harbor standards described above.

## Manufactured and mobile homes

(R.C. 319.54, 1923.01, 1923.02, 1923.04, 1923.06, 1923.09, 1923.11, 1923.12, 1923.13, 1923.14, and 4503.0611; Section 830.10)

The Forcible Entry and Detainer Law authorizes eviction proceedings against tenants and other persons under various circumstances. For example, a landlord may pursue an action under the Forcible Entry and Detainer Law to remove a tenant, including a manufactured home park resident, who continues to occupy a residential premises beyond the term of the lease agreement. The Forcible Entry and Detainer Law includes several causes of action that are specific to manufactured home park residents, including residents who:

- Default in the payment of rent;
- Breach the terms of the rental agreement;
- Commit two or more material violations of manufactured home park rules, rules of the Division of Industrial Compliance, or state and local health and safety codes;

- Abandon a manufactured or mobile home for 30 consecutive days without providing notice to the park operator or paying rent due under the rental agreement.

The bill makes several changes to these causes of action and to the process by which a park operator may sell or otherwise dispose of abandoned manufactured and mobile homes. Collectively, the changes accelerate the timeline for such causes of action and make it easier for park operators to obtain title to abandoned homes.

### **Recreational vehicles**

Under current law, the same Forcible Entry and Detainer Law causes of action and procedures that apply to manufactured and mobile homes apply to recreational vehicles parked in a manufactured home park. The bill removes all references to recreational vehicles throughout the Forcible Entry and Detainer Law, thereby limiting the application of the provisions discussed below to manufactured and mobile homes.

### **Joinder of titled owner**

The bill requires the titled owner of the mobile or manufactured home to be joined as a defendant in any action under the Forcible Entry and Detainer Law against a manufactured home park resident who is not the titled owner of the home. The bill defines “titled owner” as a person or estate that owns a manufactured or mobile home located in a manufactured home park, regardless of whether the person or estate is entitled to occupy the lot under the rental agreement with the park operator.

### **Notice and summons**

Under continuing law, a person initiating an eviction action must notify the adverse party to leave the premises three or more days before filing the action with the court. The notice must be effectuated by (1) certified mail, return receipt requested, (2) handing a written copy of the notice to the defendant in person, or (3) leaving a written copy of the notice at the defendant’s usual place of abode or at the premises from which the defendant is sought to be evicted. Every notice must contain the following language printed or written in a conspicuous manner: “You are being asked to leave the premises. If you do not leave, an eviction action may be initiated against you. If you are in doubt regarding your legal rights and obligations as a tenant, it is recommended that you seek legal assistance.”

The bill specifies that, if the adverse party in the eviction action is a titled owner of a manufactured or mobile home, the notice is instead effectuated by leaving a copy at the premises from which the defendant is sought to be evicted and sending a copy by ordinary mail to the titled owner. However, the park operator is not required to send a copy of the notice by mail if the park owner does not know the titled owner’s name and address.

The court in which the eviction action is filed must issue a summons which formally directs the defendant to appear and answer the complaint. The summons includes standard language relating to the eviction action, including the following: “A complaint to evict you has been filed with this court.” The bill modifies the standard language to account for the joinder of titled owners; specifically, the bill adds “or the resident of your manufactured or mobile home.”

## Judgment entry

Under continuing law, if the judgment in the eviction action is entered in favor of the park operator, the judge must enter in the judgment entry the authority for the park operator to remove the manufactured or mobile home from the park. The bill clarifies that such removal is contingent upon a subsequent entry for disposition of a manufactured home or mobile home.

## Notice to remove

A park operator is required to provide certain notices before seeking a writ of execution or, under the bill, a court order for the sale or disposition of an abandoned manufactured or mobile home. The bill streamlines these notice requirements and changes the process by which the titled owner or another person with an ownership interest may preserve their claim to the home. Those changes are addressed in the table below.

| Current Law                                                                                                                                                                                                                                                                                                                             | H.B. 96                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Notice to resident</b>                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                  |
| <p>If the resident of a manufactured home park or the resident's estate does not retrieve the manufactured or mobile home within three days after the entry of judgement in an eviction action, the park operator may provide a written notice to remove the home from the park within 14 days after the date of delivery.</p>          | <p>No notice is required to a resident who is not the titled owner of the manufactured or mobile home.</p>                                                                                                                                                                                                                                                       |
| <b>Notice to owners</b>                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                  |
| <p>Requires the park operator, before requesting a writ of execution, to conduct a search of the appropriate public records to identify all persons having an outstanding right, title, or interest in the manufactured or mobile home.</p>                                                                                             | <p>Limits the search to persons other than the titled owner. Requires the clerk of courts to provide title information to the park operator upon request.</p>                                                                                                                                                                                                    |
| <p>Requires the park operator to provide notice of the eviction to owners of the manufactured or mobile home and allow the owners 21 days from the date the notice is received to remove the home from the park or arrange for its sale. Requires payment of rent and storage fees to the park operator only upon pendency of sale.</p> | <p>Reduces the notice period for the titled owner of the home to 14 days. Retains the 21-day notice period for persons other than the titled owner but eliminates the option to simply remove or arrange for the sale of the home. Instead requires the person to pay all rent and storage fees up front in order to retain the person's ownership interest.</p> |
| <p>No provision.</p>                                                                                                                                                                                                                                                                                                                    | <p>Requires the notice to persons other than the titled owner to include the amount of rent and storage fees owed, the method by which to pay</p>                                                                                                                                                                                                                |

| Current Law                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | H.B. 96                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Requires the notice to be delivered in person or by ordinary mail.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>the fees, and information on how to contact the titled owner for the sale or removal of the home.</p> <p>Requires notice to the titled owner to be posted on the door of the manufactured or mobile home. Requires notice to other owners to be sent by ordinary mail.</p>                                                                                                                                         |
| <b>Deceased residents and owners</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p>No provision.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>Specifies that rent and storage fees continue to accrue on the manufactured or mobile home during the administration of the titled owner's estate.</p>                                                                                                                                                                                                                                                             |
| <p>No provision.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>Specifies that, if a probate court grants administration with respect to the titled owner's estate and the executor or administrator does not pay rent or storage fees to the park operator before the manufactured or mobile home is removed from the park or sold by another person having an interest in the home, the titled owner's estate forfeits its interest in the home (<i>R.C. 1923.12(D)(1)</i>).</p> |
| <p>Requires, if the resident who was evicted is deceased, the park operator to allow 90 days for a probate court to grant administration of the resident's estate before seeking out and providing notice to the titled owner and other persons having a right, title, or interest in the manufactured or mobile home.</p>                                                                                                                                                                                    | <p>Allows the park operator to provide such notices if the titled owner does not retrieve the home within three days after the judgment entry for eviction.</p>                                                                                                                                                                                                                                                       |
| <p>Allows the park operator to store the manufactured or mobile home at a storage facility or at another location within the manufactured home park during the administration of the titled owner's estate only if both of the following apply:</p> <ul style="list-style-type: none"> <li>▪ The titled owner is the resident who was evicted;</li> <li>▪ The probate court does not grant administration of the estate within 90 days after the titled owner's death (<i>R.C. 1923.12(E)(1)</i>).</li> </ul> | <p>Eliminates the requirement that the titled owner be the resident and the 90-day period for the probate court to grant administration of the estate. Allows the park operator to store the home at another location immediately and specifies that rent continues to accrue during such storage.</p>                                                                                                                |



| Current Law                                                                                                                                                                                                                                                                                                                                                                             | H.B. 96                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>No provision.</p> <p>If the park operator cannot locate a person who has an outstanding right, title, or interest in the manufactured or mobile home, the operator must publish notice of a petition for a writ of execution in a newspaper of general circulation in the county where the home has been abandoned.</p> <p>Requires the notice to run for two consecutive weeks.</p> | <p>Allows the park operator to request title to the home if no probate court has granted administration with respect to the titled owner's estate within 21 days after the owner is notified to remove the home (<i>R.C. 1923.12(D)(2)</i>).</p> <p>Instead requires publication of such notice if the park operator's search reveals that the titled owner is deceased. Changes reference to "writ of execution" to "court order."</p> <p>Instead requires the notice to be published once a week for two weeks.</p> |

## Valuation

Current law requires abandoned manufactured or mobile homes valued at more than \$3,000 to be sold at public auction, whereas, abandoned homes valued at \$3,000 or less may be conveyed without a sale directly to the park operator. The bill increases the value threshold for public auctions to \$10,000. It also modifies the process by which the value of an abandoned manufactured or mobile home is confirmed by the county auditor.

If the manufactured or mobile home is abandoned, current law requires the park operator to submit a notarized affidavit to the county auditor listing the titled owner, address, serial number, and the value of the home. The bill changes the content required in the affidavit and eliminates the requirement that it be notarized. Under the bill, the affidavit must state that the home is abandoned, whether the home is valued at \$10,000 or less, the date of the eviction judgment, and all persons other than the titled owner that have outstanding interests in the home.

Current law requires the county auditor to either agree or disagree with the stated value on the affidavit within 15 days after receipt. The bill increases the allotted time to 30 days. The bill also allows the park operator to submit the required information to the county auditor electronically. The bill preserves the ability for the park operator to send additional materials in support of the stated value on the affidavit consistent with industry valuation standards in the event that the county auditor disagrees with the stated value. The bill also allows the park operator to appeal to the court for a ruling on the county auditor's disagreement with the stated value of the home.

In addition, the bill specifies that the certification by the county auditor respecting the value of a manufactured or mobile home must not be construed as an official appraisal of the home for tax purposes and is not admissible in any proceeding before a board of revision or board

of tax appeals. If the county auditor does not timely certify or respond to an affidavit of a park operator within the time required, the bill allows the park operator to submit the affidavit to the court and requires the court to proceed upon the affidavit without the county auditor's certification.

### **Content of the order on the judgment**

Under current law, if the park operator requests a writ of execution on the eviction judgment and has met the requirements for issuance, the court must issue a writ containing certain specified information and instructions. The bill refers to the writ of exaction as an "order on the judgment." Furthermore, it changes the required contents of the order.

Current law expressly sets out in the writ the authority for the levying officer to remove and set out from a manufactured home park a person who remains on the premises after losing an eviction judgment, and also requires the writ to order the park operator to post a 14-day notice to the person to sell or remove the home at the person's cost three days after the judgment is entered. Current law requires the writ to declare that if the person fails to remove the home at the end of the 14-day period, the person forfeits the person's rights to the home and the park operator may exercise the park operator's rights regarding the removal or destruction of the home.

The bill instead requires that the order specify that the park operator has established by affidavit that all the legal requirements for the eviction have been met, that the search for all parties of interest has been reasonably completed, and that all required notices have been given. The bill specifies that the filing fee for the court order must not exceed the court's standard motion fee.

### **Homes valued at \$10,000 or less**

Under the bill, if the value of the manufactured or mobile home is \$10,000 or less, the order must specify that the park operator has established just grounds for that value and is authorized to do any of the following:

- Destroy or remove the home from the manufactured home park;
- Retain the home at its current location;
- Sell the home.

The bill specifies that the park operator's choice in terms of what to do with the abandoned manufactured or mobile home is not subject to judicial intervention. If the manufactured or mobile home is destroyed, the park operator must submit to the county auditor a destroyed manufactured or mobile home form detailing the date of destruction and location of the manufactured or mobile home destroyed. If the manufactured or mobile home is retained at its current location or sold by the park operator, the park operator must notify the county auditor and the clerk of courts, title division.

### **Homes valued at more than \$10,000**

If the value of the manufactured or mobile home is more than \$10,000, the bill requires that the home be sold at a public auction conducted by a licensed auctioneer, a bailiff of the

municipal court, or the county sheriff. Unlike real property taken in execution of a debt, no appraisal of the manufactured or mobile home is required before the sale. The bill establishes several new notice requirements concerning the public auction:

- Requires the park operator to file a praecipe for the sale with the clerk of court setting forth a description of the home and its location;
- Requires the clerk of court to deliver the praecipe to the bailiff, sheriff, or officer conducting the sale to determine the date for the sale in coordination with the park operator;
- Requires both the park operator and the sheriff, constable, or bailiff to serve written notice of the date, time, and place of the sale to all persons that have a right, title, or interest in the home or the personal property therein;
- Requires a bailiff of the court to be present at the auction to supervise and ensure proper procedures are followed and to receive purchase money;
- If the titled owner of the manufactured or mobile home is deceased, requires notice of the sale to be published in a newspaper of general circulation in the county once a week for two weeks.

The bill also adds additional details to the order on the judgment, which much require the bailiff to collect purchase money from the highest bidder at auction, if any, and deposit it with the clerk of court as soon as practicable. The clerk of court must hold the funds on deposit until the court examines the proceedings. The bailiff of the court must file a return reflecting completion of the sale with the name of the purchaser, the purchase amount, and the sale date. The park operator must then file with the court a motion for order confirming sale and a proposed order for transfer of title which must include an itemization of amounts to be distribute from the proceeds. Upon this motion, the court must issue an order confirming the sale, ordering distribution of proceeds, and transferring title to the manufactured or mobile home, which may be presented to the common pleas title division. The clerk of courts must then distribute the sale proceeds in accordance with the order confirming the sale.

### **Residency at the park after the sale**

The bill requires all bidders who intend to reside in the park after the sale to apply for residency with the park and be approved for residency at least seven days before the date of the sale. Any successful bidder intending to remove the manufactured home or mobile home after the sale must remove the home within 10 days after the sale and is liable to the park operator for any damage to the lot because of the removal of the home. The successful bidder must register title with the clerk of courts, title division, within 10 days after the receipt of the court order to transfer title to the successful bidder. After the sale of the manufactured home or mobile home, the park operator must file with the clerk of courts a motion confirming the sale of the home, setting forth the date of the sale, the amount of the sale, the purchaser of the home, and the distribution of proceeds.

## **Lack of bidders**

Under current law, if there are no bidders after two sale dates, the home can be transferred to the park operator. Under the bill, if the manufactured or mobile home is not sold at the first scheduled sale, the clerk must issue a certificate of title to the park operator. The certificate of title must contain a notation that it is issued, free and clear of all liens and encumbrances, including any liens for delinquent or current manufactured home taxes, whether or not such taxes are yet due and payable.

The county auditor must also remove all such taxes from the manufactured home tax list and the delinquent manufactured home tax list and remit any tax penalties and interest charged against the property. The transfer of title to the home is exempt from conveyance fees typically imposed. The bill requires the park operator to notify the county auditor of the transfer of title, and the county auditor must, in turn, notify the county treasurer. The park operator must also submit proof of registration with the county auditor to the clerk of courts to effectuate the transfer of title. If the manufactured home or mobile home is destroyed or removed, the park operator must provide the county auditor with notice of removal or destruction of the manufactured or mobile home.

## **Destruction of home and unpaid taxes**

If the county auditor determines the destruction of a manufactured or mobile home occurred within one year after the title of the home being transferred to a park operator, the bill requires the auditor to waive all unpaid manufactured home taxes charged against the home. Upon the destruction of a manufactured or mobile home, the owner of the home must dispose of the certificate of title in accordance with current law requirements.