

**AUDITOR OF STATE BULLETIN 96-019**  
**AUGUST 23, 1996**

TO: COUNTY AUDITORS  
COUNTY TREASURERS  
COUNTY BOARD OF ELECTIONS  
COUNTY ENGINEER  
COUNTY PROSECUTOR

SUBJECT: VARIOUS MATTERS DEALING WITH REAL PROPERTY AND  
COUNTY AUDITORS CONTINUING EDUCATION REQUIREMENTS.

Am. Sub. Senate Bill No. 158 was enacted to be effective May 8, 1996 to amend Sections 117.38, 149.42, 305.33, 305.37, 317.22, 319.11, 319.12, 319.20, 319.35, 319.36, 319.38, 325.31, 1340.22, 3734.122, 3734.20, 3734.22, 5705.313, 5713.19, 5715.03, 5722.03, 5722.04, 5723.06, 5723.12, and 5739.021, to enact Sections 315.251, 319.94, 319.203, and 5302.171, and to repeal Section 329.091 of the Revised Code.

**Section 117.38 of the Revised Code was amended to change the publishing requirements for the county auditor's annual financial report.** The publishing requirement for the county's annual financial report is contained in amended Section 319.11 of the Revised Code. Amended Section 319.11 reads that upon completing the annual financial report of the county, the county auditor shall publish notice that the report has been completed and is available for public inspection at the office of the county auditor. The notice shall be published once in two newspapers of general circulation published in the county; except that if only one newspaper is published in the county, then publication in only one newspaper is required; and if there are no newspapers in the county, then publication is required in the newspaper of an adjoining county that has the largest circulation in the adjoining county. Such section also states that no county auditor shall fail or neglect to prepare the report or publish notice of completion of the report as required by this section.

**Section 149.42 of the Revised Code was amended to change the composition of the township records commission.** Members were the chairman of the board of township trustees, the clerk of the township, and the auditor of the county wherein the township is situated. Amended legislation has eliminated the county auditor as a member of the township records commission; therefore, the members are now the chairman of the board of township trustees and the clerk of the township.

**Section 305.33 of the Revised Code was amended to require** whoever files a referendum petition against any resolution to file a certified copy of the resolution with both the county auditor and with the county board of elections before circulating the petition.

**Section 305.37(E) of the Revised Code was amended to add the county board of elections.** Such section (E) now reads, "No person shall, directly or indirectly alter, add to, or erase any signatures or names on the parts of a petition after such parts have been filed with the county auditor and with the county board of elections."

**Section 315.251 of the Revised Code was enacted to require a boundary survey under certain circumstances.** A survey is required whenever land to be conveyed is only a part of the grantor's land or the legal description of the land to be conveyed is different from the legal description of the land conveyed in the most recent conveyance of all or part of that land. If a boundary survey is required, the survey plat and description must satisfy the minimum standards for boundary surveys promulgated by the board of

registration for professional engineers and surveyors pursuant to Chapter 4733 of the Revised Code, and must be submitted to the county engineer for review. If the county engineer determines that the survey plat and description satisfy those standards, the county engineer approves the survey plat and description and files a copy of the survey plat and description in the engineer's survey file. The filed survey plat and description are public records under Section 149.43 of the Revised Code.

**Section 317.22 of the Revised Code is amended under division (B)(2) regarding the title of real property which has passed from a trust.** This division requires that before any real property, the title to which has passed from a trust, is transferred from the name of the trust; and before any deed or conveyance of real property is presented to or filed for record by the recorder, the trustee or the grantee, agent, or attorney of the trustee shall present to the auditor the affidavit of such trustee. This affidavit shall set forth the following:

- a. Location of the trust instrument,
- b. Describe the powers of the trustee or trustees with respect to the transfer of the real property,
- c. The name of the person who transferred the real property to the trust.

Such transfers shall be made by the auditor in accordance with the statement contained in the affidavit, and the auditor shall indorse upon the deed or conveyance the fact that such transfer was made by affidavit. The affidavit shall be filed with the recorder of the county in which such real property is situated, at or before the time such deed or conveyance is filed with the recorder, and shall be recorded by the recorder of the county in the record of deeds and indexed in the general index of deeds in the recorder's office. The recorder shall receive the same fees for such indexing and recording as provided by Section 317.32 of the Revised Code.

**Section 319.04 of the Revised Code is enacted to provide continuing education requirements for county auditors.** Division (A) of this section requires each county auditor who is elected to a full term of office to attend and successfully complete at least sixteen hours of continuing education courses during the first year of the auditor's term of office, and complete at least another eight hours of such courses by the end of that term. Each county auditor must include at least two hours of ethics and substance-abuse training in the total twenty-four hours of required courses. In order to count toward the twenty-four hours, a course must be approved by the County Auditors' Association of Ohio.

The County Auditors' Association shall record and, upon request, verify the completion of required course work for each county auditor, and issue a statement to each county auditor of the number of hours of continuing education the county auditor has successfully completed. Each year the Association shall send a list of the continuing education courses, and the number of hours each county auditor has successfully completed, to the Auditor of State and the Tax Commissioner, and shall provide a copy of this list to any other individual who requests it.

The Association shall issue a "notice of failure" to any county auditor required to complete continuing education courses under this section who fails to successfully complete at least sixteen hours of continuing education courses during the first year of the county auditor's term of office or to complete a total of at least twenty-four hours of such courses by the end of that term. **This notice is for informational purposes only and does not affect any individual's ability to hold the office of county auditor.**

**Section 319.04(B) of the Revised Code requires** each board of county commissioners to approve, from money appropriated to the county auditor, a reasonable amount requested by the auditor of its county to

cover the costs the auditor must incur to meet the requirements of division (A) of this section, including registration fees, lodging and meal expenses, and travel expenses.

**Section 319.203 of the Revised Code is enacted to require standards governing conveyances of real property in the county.** This section requires the county auditor and the county engineer of each county, by written agreement to adopt standards governing conveyances of real property in the county. The standards shall be adopted or modified only after the county auditor and county engineer have held two public hearings, not less than ten days apart, concerning adoption or modification of the standards. The standards shall be available for public inspection during normal business hours at the offices of the county auditor and county engineer.

Before the county auditor transfers any conveyance of real property presented to the auditor under Section 319.20 of the Revised Code, the county auditor shall review the conveyance to determine whether it complies with the standards adopted under this section. The county auditor shall not transfer any conveyance that does not comply with those standards.

**Section 319.35 of the Revised Code is amended pertaining to correction of clerical errors.** This section has been amended to add the following: “For the purposes of this section and Section 319.36 of the Revised Code, a clerical error is an error that can be corrected by the county auditor from the inspection or examination of documents in the county auditor’s office or from the inspection or examination of documents that have been presented to the county auditor and have been recorded by the county recorder. Except as otherwise provided by law, any error in the listing, valuation, assessment, or taxation of real property other than a clerical error constitutes a fundamental error and is subject to correction only by the county board of revision as provided by law.”

**Section 319.36 of the Revised Code is amended to add a recoupment charge.** This section states that if, after having delivered a duplicate to the county treasurer for collection, the county auditor is satisfied that any tax, assessment, recoupment charge, or any part thereof has been erroneously charged as a result of a clerical error as defined in Section 319.35 of the Revised Code, the county auditor shall give the person so charged a certificate to that effect to be presented to the treasurer, who shall deduct the amount from such tax, assessment, or charge. If, at any time, the auditor discovers that erroneous taxes, assessments, or charges have been charged or collected in previous years as a result of a clerical error, except for public utility taxes covered under Section 5727.471 of the Revised Code, the county auditor shall call the attention of the county board of revision to such charge or collection at a regular or special session of the board.

Division (B)(1) is amended to require the county auditor to draw a warrant on the treasurer in favor of the person paying the erroneous charges, or the personal representative of the person paying the erroneous charges, for the full amount of the taxes, assessments so charged and collected with any applicable interest thereon as prescribed by division (E) of this section or by Section 5719.041 of the Revised Code.

**Division (E) as enacted requires interest to be refunded as part of the overpayment in the event of an erroneous tax, assessment, or charge against real property.** Division (E) requires that in the event of an erroneous tax, assessment, or charge against real property, the county auditor shall add the accrued interest to the overpayment, which interest becomes part of the overpayment. The interest accrues on the overpayment from the first day of the month following the date of overpayment until the last day of the month preceding the date of the drawing of the warrant pursuant to division (A) of this section. The date of overpayment with respect to persons who pay their real property taxes in two installments is the date of the second installment payment. The rate at which the interest accrues is the rate per calendar month, rounded to the nearest one-hundredth of one per cent, equal to one-twelfth of the rate per annum prescribed

by Section 5703.47 of the Revised Code for the calendar year that includes the month for which the charge accrues. The interest shall be paid on a pro-rata basis from the fund or funds to which the overpayment was credited.

**Division (F) is enacted regarding payment of interest exceptions.** Division (F) provides that the payment of interest under division (E) of this section shall not be made on an overpayment resulting from a reduction in the appraised true value, other than such a reduction resulting from the correction of a clerical error.

**Section 319.38 of the Revised Code is amended regarding property destroyed or injured.** This section now reads that whenever it is made to appear to the county auditor, by the oath of the owner or one of the owners of a building or structure, land, orchard, timber, ornamental trees, or groves, or by the affidavit of two disinterested persons, who are residents of the township or municipal corporation in which such property is or was situated, that it is listed for taxation for the current year, and has been destroyed or injured after the first day of January of the current year, the county auditor shall investigate the matter and adjust the valuation of the property on the tax list for the current year, as prescribed by divisions (A) through (D) of this section:

(A) If the injury or destruction occurred during the first calendar quarter, the county auditor shall deduct from the valuation of the property an amount that, in the county auditor's judgment, fairly represents the extent of the injury or destruction;

(B) If the injury or destruction occurred during the second calendar quarter, the county auditor shall deduct from the valuation of the property seventy-five per cent of the amount that, in the county auditor's judgment, fairly represents the extent of the injury or destruction;

(C) If the injury or destruction occurs during the third calendar quarter, the county auditor shall deduct from the valuation of the property fifty per cent of the amount that, in the county auditor's judgment, fairly represents the extent of the injury or destruction;

(D) If the injury or destruction occurs during the fourth calendar quarter, the county auditor shall deduct from the valuation of the property twenty-five per cent of the amount that, in the county auditor's judgment, fairly represents the extent of the injury or destruction.

The owner of injured or damaged property shall apply to the county auditor for a deduction under this section not later than the thirtieth day after the last day of the calendar quarter during which the injury or destruction occurs. If the deduction cannot be entered upon the current tax list and duplicate, the county auditor shall proceed in the manner prescribed under Section 5715.22 of the Revised Code to refund or credit to the taxpayer the amount of the reduction in taxes attributable to the deduction in valuation made under this section.

**Section 325.31 of the Revised Code is amended regarding the expenses of the board of revision.** Division (B) of this section was amended to allow the real estate assessment fund to pay, at the county auditor's discretion, the expenses incurred by the county board of revision under Chapter 5715 of the Revised Code in addition to the cost associated with the assessing real estate pursuant to Chapter 5713 of the Revised Code.

**Section 5302.171 of the Revised Code is enacted regarding when a trustee of a trust that owns property ceases to be a trustee.** This section requires that when a trustee of a trust that owns real property ceases to be a trustee of that trust due to death, resignation, or any other reason, the successor trustee or a co-trustee, within thirty days from the death, resignation, or other terminating event of the prior

trustee, shall present to the county auditor and file with the county recorder an affidavit, accompanied by a certified copy of a death certificate in the case of death of the trustee. The county recorder shall make index reference to any affidavit so filed in the record of deeds.

**Section 5705.313 of the Revised Code is amended to provide for the county commissioners to reduce the rate of any property tax when a sales tax has been approved.** Section 5705.313 (A)(2) provides that at any time after a board of county commissioners has adopted a resolution pursuant to Section 5739.021 or 5739.026 of the Revised Code to levy or increase the rate of the sales tax, the board may adopt another resolution reducing the rate of any property tax the county currently is levying for current expenses within the ten-mill limitation or amending a previously adopted accompanying resolution increasing the amount of an existing reduction made under this division. This resolution may be adopted at any time during which the county is levying the sales tax under 5739.021 or 5739.026 of the Revised Code.

**Section 5715.03 of the Revised Code is amended to include** that the compensation of the experts, clerks, and other employees and expenses of the county board of revision may be paid from the real estate assessment fund pursuant to Section 325.31 of the Revised Code.

**Section 5739.021 of the Revised Code is amended to provide** that if a petition for a referendum under this section is filed pursuant to Sections 305.31 to 305.41 of the Revised Code, the county auditor with whom the petition was filed shall, within five days, notify the board of county commissioners and the tax commissioner of the filing of the petition by certified mail. If the board of elections with which the petition was filed declares the petition invalid, the board of elections shall, within five days, notify the board of county commissioners and the tax commissioner of that declaration by certified mail. If the board of elections declares the petition to be invalid, the effective date of the tax or increased rate of tax levied by this section shall be the first day of the month following the expiration of thirty days from the date the petition was declared invalid by the board of elections.

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This bulletin summarizes the major amendments and enactments to the Revised Code by Am. Sub. S.B. No. 158 and is not intended to be used as a substitute for the actual legislation. For additional details, public offices are encouraged to obtain a copy of the legislation.

If you should have any questions, please contact the Local Government Services Division of the Auditor of State's Office at 1-800-345-2519.