

## **S.B. 353 Ancillary Bells and Whistles**

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**Cuyahoga Land Bank**

S.B. 353's main purpose is to provide for the creation of county land banks, foreclosure reform and a funding mechanism for land reutilization. In addition to the powers available under existing law, the bill authorizes a number of additional ancillary features which could possibly assist in the purposes of the LRC. Below is a survey of these features:

1. Authorizes the County to offer lease space to a LRC at or below market value rent; 307.01(D);
2. As part of a County's economic development efforts, it may support a LRC; 307.07(A) and (B)(9); 307.09(B);
3. The County may transfer real or personal property to an LRC without competitive bidding; 307.10(B);
4. The County may provide direct support to a LRC as it chooses. 307.64 and 307.698;
5. The LRC may enter into microfilming and data processing agreements with the County Microfilming Board and County Automatic Data Processing Board for microfilm and data processing services; 307.806 and 307.846;
6. Transfers from a LRC to a third party are exempt from the transfer tax; 319.54(G)(3)(y);
7. Transfers of real property from a third party to a LRC requires the transferor to pay the conveyance tax, but the tax is payable to the LRC fund; 319.(G)(3);
8. Any portion of the 2.5% DETAC specifically allocated to the Treasurer may be utilized to support the LRC; 321.261(A)(2);
9. Upon request of the Treasurer and approval of the County Commissioners, an additional 5% of DETAC may be allocated to support a LRC; 321.261(B);
10. Both judicial foreclosures and BOR foreclosures may invoke the 28-day alternative right of redemption thus avoiding Sheriff sales. Under the expedited foreclosure process, transfers are still limited to abandoned lands;
11. Clarifies that a delinquent tax contract can be entered into at any time up to an adjudication of tax foreclosure and prior to redemption (as opposed to the commencement of the foreclosure action). 323.31;
12. Existing law allows a Treasurer, with Court approval, to serve as an ex officio receiver for income producing, tax delinquent properties. The changes allow the Treasurer to utilize a LRC as his agent for this purpose. 323.49(F) and 323.50;

13. Allows a LRC to receive direct transfers under the HB 294 process without consent of a municipality. 323.65(G)(2);
14. An LRC is entitled to be a certificate holder and has standing to pursue foreclosure in the BOR. 323.66. A LRC Certificate Holder may purchase a certificate with a note payable on resale of the property (5721.30(D) and with the consent of the Treasurer the balance of the note abated if the sale price is insufficient to pay the face value of the note;
15. Clarifies from HB 294 that BOR staff can issue hearing notices for BOR cases. 323.3266(C);
16. Clarifies from HB 294 that the 20-day dismissal rule only applies to owners of record, and not lien holders. 323.69(B)(1) (further amended in SB 172 to be discussed);
17. Parties not responding after having been served by publication are deemed to be in default and no further service of papers is required; further, the BOR may utilize the Rules of Civil Procedure where it is useful to do so. 323.69(C);
18. The BOR has explicit authority to determine the validity of any imposition (taxes or assessment, nuisance charges). 323.70;
19. Existing law allows 20% to go to DETAC for HB 294 hearings (abandoned lands only). That amount inures to the DETAC fund upon the initiation of any proceeding (as opposed to any foreclosure) for collection. Also, the Treasurer may use up to one half of such amounts for “community development, nuisance abatement, foreclosure prevention, demolition or to a LRC. 323.73(C);
20. Upon the sale of lands under the HB 294 process, any surplus moneys are to be held by the Clerk until the interested parties stipulate as to its disbursement or as otherwise ordered by a Court in an interpleader action. 323.73(C);
21. Provides that a LRC may contract with a municipality to do nuisance abatement. 715.261(E). The LRC’s or municipality’s lien is effective when the nuisance abatement expenses are “incurred.” 715.26(B). The lien of a LRC or city are superior to all other liens except the Treasurer’s tax lien. The LRC and City have a direct cause of action to pursue foreclosure or seek a money judgment. 715.261(F); in the interest of nuisance abatement, a court or BOR may order the lien for taxes and assessments to be subordinate to the lien for abatement;
22. LRC and cities are authorized to utilize the services of an LRC to do code enforcement. 1724.02(J);
23. LRCs are not required to pay a recorder fee for any filing fees otherwise chargeable by a county recorder. 317.32;
24. All lands held by a LRC are real estate tax exempt, and the LRC need only produce its articles of incorporation as a prerequisite to establishing such exemption. No need to file with the state. 5709.12(F);

25. Delinquent vacant land is forecloseable after being delinquent for one year. 5721.03(B) (needs legislative clarification as DLCs are not issued until 1-year after advertising);
26. Provides that any uncollected surplus residue from a foreclosure sale, shall, within three (3) years, be paid to the DETAC fund or to the LRC in counties which have LRCs. 5721.20;
27. The “tax certificate administration fund” referred to in R.C. 5721.31(E) allows any “surplus” to that fund to be credited to the LRC at the Treasurer’s approval. 5721.31(E);
28. The Treasurer may negotiate the sale of tax lien certificates with a LRC. 5721.33(A);
29. The sale of tax lien certificates to a LRC may be purchased with notes from the LRC pending further sale or enforcement upon such properties “or as otherwise agreed” between the Treasurer and the LRC. 5721.33(E)(1);
30. LRCs may freely assign tax lien certificates. 5721.35(A)(2)(a);
31. LRCs may initiate a tax foreclosure at any time after acquiring a certificate. 5721.37(A)(1) and (2);
32. In counties where the LRC has been invoked, any interest earned on the “tax certificate redemption fund” as referred to in R.C. 5721.38(D)(1) may be credited to the LRC. 5721.38(D)(1);
33. Overpayments to the “tax certificate redemption fund” which remain after 5 years may be credited to a LRC. 5721.38(D)(2) and (E);
34. The one year “no talk rule” is eliminated. Tax lien certificate holders may pursue collection within one month of acquiring a certificate. 5721.43;
35. LRCs authorized by a county are deemed electing subdivisions, but free of many of the restrictive provisions of 5722.01 et seq. 5722.01(A);
36. Lands forfeited to the state after exposure to sale may be transferred for free to a LRC without appraisal or bidding. 5723.04(B);
37. All proceeds of all lands acquired through foreclosure and thereafter sold, shall be retained by the LRC for its continued mission. 5722.08(D);
38. Community Advisory groups are eliminated as to LRCs. 5722.09(C);
39. LRCs are not subject to environmental liability under state law unless the LRC causes the hazard. 5722.22;
40. Excess funds from the sale of forfeited lands may, after one year, be transferred to the LRC. 5723.11.