



Ohio Revised Code

Section 319.61 Notice of intention to proceed with public improvement.

Effective: January 23, 1963

Legislation: House Bill 1 - 105th General Assembly

(A) When a political subdivision of this state authorized to undertake public improvements has determined to construct or make such an improvement and to levy special assessments or charges to pay all or a part of the cost thereof, the authority of such subdivision empowered to levy such special assessments or charges shall, within the time limitations prescribed by this section, cause notice of intention to proceed with such improvement to be filed with the auditor of each county in which any property to be specially assessed or charged is located and shall, within the time limitations prescribed by this section, cause notice of the levy of such assessments or charges for such improvement to be filed with the auditor of each county in which any property specially assessed or charged is located.

The filing of the notice of intention to proceed with the improvement shall take place within fifteen days after the earliest of the following actions: the adoption of an ordinance or resolution determining to proceed with the improvement; the adoption of an ordinance or resolution directing that the improvement be made by force account or authorizing or directing entry into a contract for the making of the improvement; or the written or verbal order that the improvement be made by force account or authorizing or directing entry into a contract for the improvement; provided, that if any of these actions occur prior to September 1, 1961, such notice shall be filed within six months following such date.

The filing of the notice of the levy of special assessments or charges shall take place within twenty days after the earliest of the following actions: the adoption of an ordinance or resolution levying such assessments or charges; the adoption of an ordinance or resolution certifying the same to the auditor; the determination by the officer empowered to establish the amount to be assessed or charged of the amounts of such assessments or charges; provided, that if any of these actions occur prior to September 1, 1961, such notice shall be filed within six months following such date.

(B) The failure to file with the auditor either the notice of intention to proceed or the notice of the levy of special assessments or charges, in the manner and within the times prescribed in this section,



shall not impair the validity of the assessments or charges, and, subject to section 727.34 of the Revised Code, the lien of such assessments or charges shall be and remain prior to any and all liens obtained by any private person, firm, partnership, or corporation irrespective of the date thereof except the lien of a mortgage obtained by a bona fide mortgagee and duly filed for record after either:

(1) The expiration of the period prescribed in this section for the filing of the notice of intention to proceed and prior to the filing of such notice; or

(2) The expiration of the period prescribed in this section for the filing of the notice of the levy of special assessments or charges and prior to the filing of such notice; provided, that if the notice of intention to proceed has not been filed but the notice of the levy of special assessments or charges has been filed, then no private person, firm, partnership, or corporation shall obtain any lien prior to the lien of such assessments or charges except pursuant to division (B)(1) of this section; and provided, that if on September 1, 1961 any assessments or charges have been certified to the auditor or bonds have been issued in anticipation of the collection thereof, the lien of such assessments shall be and remain prior to any and all liens obtained by any private person, firm, or corporation whether or not the notices required in this section are filed in the manner and within the times prescribed in this section.

(C) As used in this section:

(1) "Political subdivision" means the city health district; general health district; municipal corporation; board of park commissioners of a city, county, township, park district, conservancy district; sanitary district; regional sewer and water district; and any other political subdivision of this state which is empowered to levy special assessments or charges.

(2) "Notice of intention to proceed" means a copy, certified as true and accurate by the custodian of the records of the political subdivision, of an ordinance or resolution determining to proceed with such an improvement; a copy, certified as true and accurate by the custodian of the records of the political subdivision, of an ordinance, resolution, entry, or order that the work be done by force account or authorizing or directing the entry into a contract for such work; or certificate of the officer having supervision of the improvement reciting that the improvement is to be made and that all or a



portion of the cost thereof will be assessed or charged against designated property.

(3) "Notice of the levy of special assessments or charges" means a copy, certified as true and accurate by the custodian of the records of the political subdivision, of an ordinance or resolution levying the assessments for such improvement; a copy, certified as true and accurate by the custodian of the records of the political subdivision, of an ordinance or resolution certifying the assessments or charges to the auditor; or certificate of the officer empowered to establish the amounts to be assessed or charged that such amounts have been determined.

(4) "Special assessments or charges" means special assessments or charges excluding charges for utility services.

The auditor of each such county shall charge and collect a fee of one dollar for each copy of any such resolution, ordinance, entry, order, or certificate filed in his office pursuant to this section. The auditor, upon receiving for filing any of the foregoing items, shall endorse thereon the time of its filing and its consecutive filing number and shall enter in a book or on cards, which shall be known as the special assessment record, and which shall be alphabetically arranged as between political subdivisions, the filing number, the number, if any, set forth on any ordinance or resolution, the date of its enactment or of the entry, order, or certificate, the date upon which it was received, and an abbreviated description of the improvement for which the assessments or charges are to be levied or are levied as disclosed by such items. The auditor shall also file each such item received in his office to be kept for inspection of all persons interested therein.