



## Ohio Revised Code

### Section 323.32 Payments received in settlement of claims arising from delinquent property tax charges and ordered to be paid by railroad company under plan of reorganization.

Effective: December 31, 2017

Legislation: House Bill 49 - 132nd General Assembly

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As used in this section, "railroad note" means a note issued pursuant to a court order in the reorganization of a railroad company under section 77 of the Bankruptcy Act.

Notwithstanding any other provision of law to the contrary, with respect to all payments received in settlement of claims arising from delinquent property tax charges and ordered to be paid by a railroad company under a plan of reorganization as ordered by a federal district court in accordance with provisions of Chapter VIII of the "Federal Bankruptcy Act," 11 U.S.C.A. 201-208, the following provisions shall apply:

(A) Except as provided in division (H) of this section, all of such payments shall be made payable, and delivered, to the county in which the taxing district sharing in a claim for delinquent taxes is located. Any notes included in such payment shall be issued to such county treasurer, who shall be the custodian of all of said notes, and who shall be liable therefor upon the treasurer's bond until such time as said notes mature, are sold, or otherwise lawfully pass from the treasurer's custody.

(B) Upon receipt of a payment by cash or check, the county treasurer shall immediately cause such funds to be paid into the county treasury and credited to a special fund established for this purpose, which shall be known as the "undivided bankruptcy claims fund." All of such moneys so received, including any earned interest, shall be credited to said fund.

(C) When the total claim for each county has been satisfied by the receipt of cash or notes, or both, the county auditor shall remit from the tax list and duplicate of real and public utility property in each county, all charges appearing thereon in the name of the railroad company for which such payment has been made, which are delinquent and unpaid from any year previous to the tax year 1977.



(D) At any time that funds are present in the undivided bankruptcy claims fund, either upon initial settlement or at any later time, the county auditor shall, forthwith, distribute by auditors' warrant, such funds to the various taxing districts of the county, in which the property taxes, from which the claim in bankruptcy has derived, were originally charged. The funds so distributed shall be apportioned among the various taxing authorities within each taxing district in the same proportions as the said taxes were originally levied, taking into account the various rates of taxation levied for different purposes for each year in which such taxes were charged and remained unpaid, and any unpaid special assessments, including compound interest thereon at the rate of six per cent per annum to January 1, 1978.

In making such distribution, the auditor shall, first, deduct an amount equal to one per cent of the total amount to be distributed, as fees for services of the county auditor and treasurer in making collection and distribution of the claim in bankruptcy. Such deduction shall be in lieu of all fees provided for in sections 319.54 and 321.26 of the Revised Code. The amount so deducted shall be credited to the general fund of the county.

If any funds received pursuant to this section represent taxes which, if collected, would have resulted from any general or emergency levy which has since expired, such funds may be credited to the general operating fund and expended as though they are proceeds from a current levy, and if any of such funds represent taxes from any current general bond retirement levy or one which has since expired, said funds may be credited to the current bond retirement fund and used to service any current bond indebtedness, or may be credited to the general operating fund of the district, if so designated by a majority of the members of the taxing authority of the taxing district.

(E) Except as provided in division (H) of this section, when, as a part of the settlement of a claim in bankruptcy of a reorganized railroad company a county receives notes on behalf of a taxing authority in partial payment of said claim, the county treasurer shall, within a reasonable length of time, notify the taxing authority of each taxing district sharing in the claim that such notes are in the treasurer's custody. Within sixty days of receipt of such notice, each taxing authority shall decide by a resolution approved by a majority of its members whether:

(1) The notes shall remain in custody of the county treasurer, as issued, and allowed to mature according to the terms presented on their face with the proceeds to be distributed upon maturity



pursuant to division (D) of this section; or

(2) The railroad notes shall be exchanged for several new notes in denominations equal to the proportionate share, or portion thereof, of the taxing district having a share in the claim in bankruptcy as determined in division (D) of this section. The new notes shall be distributed, upon receipt, to each taxing authority in full satisfaction of its claim or in full satisfaction of the portion of its claim represented by the notes so received. If notes cannot be issued in denominations equal to the taxing district's proportionate share, the treasurer shall certify to the taxing authority of the district the amount of notes held by the treasurer on behalf of the district and for which notes cannot be issued pursuant to the taxing authority's decision under this subdivision. Upon receipt of such certification, the taxing authority may borrow money and issue notes against such certification in the same manner as is provided by division (F) of this section.

If a taxing authority elects the option provided under division (E)(1) of this section, it may at any subsequent time elect instead the option provided under division (E)(2) of this section by resolution approved by a majority of its members. The election of the option provided under division (E)(2) of this section becomes final upon receipt by the taxing authority of the new notes or certification distributed by the county treasurer under such division.

Each taxing authority shall certify a copy of any resolution adopted under this division to the county treasurer who shall take appropriate action as directed by each taxing authority.

(F) A taxing authority having possession of any railroad note or a treasurer's certification issued under division (E)(2) of this section may, by approval of a majority of its members, borrow money and issue its note in anticipation of the revenue payable on maturity of the railroad note and pledge the railroad note or the proceeds thereof. Such anticipation note shall mature no later than the railroad note and shall be in an amount no greater than seventy per cent of the face amount of said railroad note. By like action a taxing authority may sell any railroad note in its possession at public or private offering for not less than the prevailing market price. Such a sale or borrowing shall be exempt from all other requirements and limitations of the Revised Code, including the requirements of the Uniform Bond Law.

(1) If a taxing authority desires to issue delinquent tax bonds pursuant to section 131.23 of the



Revised Code prior to either receipt of any payment from a railroad in bankruptcy or utilization of the authority granted in this section, the taxing authority may determine whether or not the net amount of delinquent taxes unpledged for purposes of division (B)(5) of section 131.23 of the Revised Code shall include all or part of the delinquent taxes owed by a railroad, or, if notes have been received pursuant to this section, the unpaid principal amount of such notes. If the taxing authority determines that any such railroad delinquencies or note amount shall be included under section 131.23 of the Revised Code, the amount which may be borrowed pursuant to this section may not exceed seventy per cent of the total face amount of railroad notes remaining after deducting the amount so included.

(2) If a taxing authority desires to issue delinquent tax bonds pursuant to section 131.23 of the Revised Code after utilization of the authority granted in this section, the net amount of delinquent taxes unpledged for purposes of division (B)(5) of section 131.23 of the Revised Code may not include the principal amount of railroad notes which have been borrowed against or sold pursuant to this section.

(G) When a taxing authority receives a railroad note, the face amount of such note shall not be considered as revenue for any purpose in the year in which the note is received. Upon sale or maturity of the note, any proceeds not pledged pursuant to division (F) of this section shall be considered as unanticipated revenue from a new source and all of the provisions of law pertaining to such revenue, including section 5705.36 of the Revised Code, shall apply.

(H) When there are present in a county nonrepresented taxing districts as provided in amended substitute house bill 336 of the 112th general assembly, all of the provisions of this section shall apply to such districts, except as follows:

(1) Payments by cash or check may be made payable, and delivered, directly to the treasurer of the taxing district. Any notes included in the settlement of the district's claim may be issued, and delivered, directly to said treasurer.

Upon receipt of any of such payments, the treasurer of the taxing district shall certify, to the county treasurer of the county in which the district is located, the fact of such receipt and the amounts so received.



(2) If the claim of a nonrepresented taxing district is not paid directly to the treasurer of the district but is included with payments for the remainder of the county, cash payments included in the initial settlement shall be distributed as provided in divisions (B) and (D) of this section. Any notes received as payment shall be exchanged and distributed to nonrepresented taxing districts upon receipt.