



HOUSE BILL 111: Winston-Salem/Service by Publication Cost.

2017-2018 General Assembly

Committee:	House State and Local Government I	Date:	March 15, 2017
Introduced by:	Reps. Conrad, Lambeth, Terry, Hanes	Prepared by:	Giles Perry
Analysis of:	PCS to First Edition		Jessica Sammons
	H111-CSBK-5		Committee Co-Counsel

OVERVIEW: *House Bill 111 (Proposed Committee Substitute) allows the City of Winston-Salem to include the amount of cost of service of complaints and orders by publication to the list of costs that may be a lien against the property when enforcing its minimum housing ordinance.*

The PCS specifies that the amount that may be a lien against the property is the actual amount of cost incurred, and clarifies that the act is effective when it becomes law, and applies to complaints or orders issued on or after that date.

[As introduced, this bill was identical to S51, as introduced by Sens. Lowe, Krawiec, which is currently in Senate State and Local Government.]

CURRENT LAW: Part 6 of Article 19 of Chapter 160A, Minimum Housing Standards, authorizes cities and counties to exercise its police power to repair, close, or demolish dwellings found to be unfit for human habitation, and to provide by ordinance for the repair, closing or demolition of any abandoned structure found to be a health or safety hazard.

If a county or city opts to adopt a minimum housing standard ordinance, enforcement may be triggered by any of the following:

- A public authority, meaning any housing authority or officer who is in charge of any department related to health, fire, building regulations, or other activities concerning dwellings, may file a petition charging that the dwelling is unfit for human habitation.
- Five or more residents may file a petition charging that the dwelling is unfit for human habitation.
- It appears to the public officer, on his or her own motion, that the dwelling is unfit of human habitation.

If the designated public officer's preliminary investigation discloses a basis for a charge that the dwelling is unfit for human habitation, the public officer must issue and serve a complaint. The property owner and parties in interest then have an opportunity for notice and hearing in a proceeding before the county or city, not in the court system.

If, after notice and hearing, the public officer determines that the dwelling is unfit for human habitation, the public officer must order the property owner to do one of the following:

- (1) Repair, alter, or improve the dwelling if it can be done at a reasonable cost in relation to the value of the dwelling within a specified time.

Karen Cochran-Brown
Director



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- (2) Remove or demolish the dwelling if the repair, alteration, or improvement cannot be made at a reasonable cost in relation to the value of the dwelling within the specified time. If the dwelling is located within a historic district of a city, additional input as to the outcome is granted to the Historic District Commission of the county or city.

If the owner fails to comply with the public officer's order, the public officer may cause the dwelling to be repaired, altered, improved, closed, demolished, or removed, depending on the order issued. G.S. 160A-443.

By function of the statute, the amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition become a lien against the property. The lien is collected in the same manner, and same priority, as a lien for a special assessment, meaning:

- It may be foreclosed as a tax lien.
- The county or city is not entitled to a deficiency judgment in an action to foreclose the lien.
- The lien is inferior to all prior and subsequent liens for State, local, and federal taxes and superior to all other liens. G.S. 160A-233 and G.S. 160A-443.

With respect to service, the complaints and all notices and orders are to be served personally or by registered or certified mail. If the identities of the owners or their whereabouts are unknown, and cannot be ascertained by the exercise of due diligence, the public officer may serve by publication in a newspaper having general circulation in the county/city at least once no later than the time at which personal service would be required. If service is made by publication, a notice of the pending proceedings must be posted in a conspicuous place on the premises at issue. G.S. 160A-445.

BILL ANALYSIS: House Bill 111 (Proposed Committee Substitute) allows the City of Winston-Salem, in cases enforcing its minimum housing ordinance, to include the amount of cost of service of complaints and orders by publication to the list of costs that may be a lien against the property under G.S. 160A-443(6), in addition to the amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition of the property.

EFFECTIVE DATE: This act would become effective when it becomes law.