



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

2017-2018 General Assembly

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| Committee: House Finance | Date: April 6, 2017 |
| Introduced by: Reps. Conrad, Lambeth, Terry, Hanes | Prepared by: Greg Roney |
| Analysis of: Second Edition | Staff Attorney |

OVERVIEW: *House Bill 111 would allow the City of Winston-Salem to include the actual 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.*

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

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.
- A public officer, on their own motion, that the dwelling is unfit for 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:

- 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.
- 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.

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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 statute, the cost of repairs, alterations, improvements, vacating and closing, 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:

- The lien 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.

For service of process, the complaints, notices, and orders are served personally or by registered or certified mail. If the owners' identities or location 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 must also be posted in a conspicuous place on the premises. G.S. 160A-445.

BILL ANALYSIS: House Bill 111 would allow the City of Winston-Salem, in cases enforcing its minimum housing ordinance, to add the actual cost of service by publication to the costs that may be a lien against the property under G.S. 160A-443(6).

EFFECTIVE DATE: House Bill 111 would become effective when it becomes law.

Giles Perry and Jessica Sammons, both with the Legislative Analysis Division, substantially contributed to this summary.