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**RESIDENTIAL RENTAL PROPERTY: REGISTRATION,
NOTIFICATION, AND PENALTY ASSESSMENT
PROCEDURES**

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Introduction

The purpose of this Bulletin is to assist Ohio's county auditors in administering the residential rental property registration, notification, and penalty assessment procedures in Ohio law. The owner information requirements for residential rental property were established by Sub. H.B. 294 (126th G.A.), effective September 29, 2006, and those requirements were amended by Am. Sub. HB 119 (127th G. A.), effective September 29, 2007.

Note that Ohio law limits the definition of residential rental property to otherwise qualified property located in an Ohio county with population of more than 200,000 residents following the most recent decennial census. According to the results of the 2000 census published by the U.S. Census Bureau, there are twelve counties that meet this criteria as of the issuance of this Bulletin in September 2007.

Appendix A contains the forms prescribed by the Tax Commissioner for this program. These official forms must be used in all the counties in which residential rental property is located, unless the Tax Commissioner approves the use of alternate forms.

Definition of Residential Rental Property

1. Population Limitation

Ohio Revised Code section (R.C.) 5323.01(E) contains the definition of residential rental property. In addition to characterizing the qualified rental property, this division of law limits residential rental property to property that is located in a county that has a population of more than 200,000 residents according to the most recent decennial census. According to the Population Division of the U.S. Census Bureau, the April 1, 2000, census results indicate twelve Ohio counties fall into this category. Those counties are listed below.

Butler County	Lucas County
Cuyahoga County	Mahoning County
Franklin County	Montgomery County
Hamilton County	Stark County
Lake County	Summit County
Lorain County	Trumbull County

As the results of future decennial censuses are released, this list will be subject to change.

2. What Constitutes Residential Rental Property?

Residential rental property includes each parcel of real property which meets either of the following criteria:

- 1) A real property parcel on which at least one dwelling unit that is leased or otherwise rented to tenants solely for residential purposes is located.
- 2) A real property parcel that is located in a mobile home park or other permanent or semi-permanent site at which lots are leased or otherwise rented to tenants for parking a manufactured home, a mobile home, or a recreational vehicle that is used solely for residential purposes.

R.C. Section 5323.01(E) provides exceptions to these definitions by specifying that residential rental property does not include a hotel or a college or university dormitory. All other parcels of real property on which at least one residential living unit is leased or rented as described above, are considered residential rental property, regardless of other improvements that are located on the parcel. For instance, a parcel improved with a street-level retail store and two second floor apartments that are leased to residential tenants, is residential rental property even though the parcel may be classified as commercial for real property tax purposes.

Owner Information Requirements

1. Who must file?

R.C. Section 5323.02 requires an owner of residential rental property to file certain information with the county auditor. If a property has multiple individual owners (John, Jane and Joe Doe), only one of them is required to file as the contact agent. If the property is owned by a trust, business trust, estate, partnership, limited partnership, limited liability company, association, corporation, or any other business entity, then one of the following persons, as indicated below, must file as the contact agent.

If the property is owned by:

- a. a trust - a trustee must file
- b. an estate - the executor or administrator must file
- c. a partnership or a limited partnership - a general partner must file
- d. a limited liability company - a member, manager, or officer of the company must file
- e. an association - an associate must file
- f. a corporation - an officer must file
- g. any other business entity - a member, manager, or officer

2. What Information Must be Filed?

The contact agent must file the following information:

- a. In the case of property owned by an individual or individuals, the name, address, and telephone number of the owner who is filing as the contact agent for the property.
- b. In the case of an owner other than an individual or individuals, the name, address, and telephone number of the individual who is filing as the contact agent for the property.
- c. The street address and permanent parcel number of the residential rental property.

3. When Must the Information be Filed?

An owner of residential rental property must file the required information with the county auditor within sixty days (including weekends and holidays) after any change in the information occurs, but the penalties associated with failure to file the required information are only assessed following the notices received by the owner with the conveyance form and on the tax bills. See *Notification Procedures*, page 5, and *Penalty Assessment Procedures*, page 6.

4. Where Should the Required Information be Maintained?

The county auditor should record the required information in a newly created section of the real property records for the property. The Tax Commissioner will not require the information to be published on the tax list, although the required information, as part of the real property record, is a public record.

Notification Procedures

1. Conveyance of Residential Rental Property

When residential rental property is conveyed, the auditor must include a statement with the copy of the conveyance form returned to the grantee. That statement must provide notice to the grantee that the grantee must file the information contained in R.C. 5323.02(C) (See *Owner Information Requirements*, page 3) with the auditor within sixty days following the transfer of the property. Form DTE 100-R, *Residential Rental Property Registration Notice*, has been prescribed for this purpose. Since it may not be readily evident that the property being transferred includes a residential rental unit, a copy of the DTE 100-R should be included with the receipted copy of each taxable and exempt conveyance form.

Because residential rental property only exists, by definition, in Ohio's twelve most populous counties following the 2000 Census, this instruction only applies to those counties.

2. Real Property Tax Bills

The county auditor is required to include the following statement on each real property tax bill issued for residential rental property:

If the real property for which this bill is issued is used as residential rental property and an owner's current contact information has not been filed with the county auditor, the required information must be filed with the auditor within sixty days of receipt of this bill. Failure to file the information or to update incorrect information in a timely manner may result in the assessment of a penalty of up to \$150 following each tax bill for which the information is not filed. See Revised Code sections 5323.01, .02 and .99 or the county auditor for more information.

Since it may not be readily evident that the property includes a residential rental unit, the auditor is instructed to include this notice on every real property tax bill. Alternatively, the auditor may include this statement on an insert mailed in the same envelope as the tax bill.

Since residential rental property only exists, by definition, in Ohio's twelve most populous counties following the 2000 Census, this instruction only applies to those counties.

Penalty Assessment Procedures

1. When the Penalty Assessment May be Imposed

The county auditor may, at his or her discretion, choose to issue the penalty assessment when an owner of residential rental property fails to register the required contact agent information within sixty days of either the receipt of a tax bill issued for residential rental property or the conveyance of residential rental property. Although owners are also required under the law to update contact agent information within sixty days of any changes in that information, the law more specifically requires the owner's compliance following the auditor's notices. See R.C. Section 5323.02(C), (D) and (E). If an owner fails to comply with registration requirements on an ongoing basis, the auditor may assess the penalty each time the owner fails to register after receiving notice, e.g. following each real property tax bill.

In order to ensure that all potentially affected owners receive notice of the registration requirements, the Tax Commissioner has instructed auditors to include the form DTE 100-R with every real property conveyance and to include the notification language on every real property tax bill. **However, the auditor should verify either through the real property records or field inspection that a specific property meets the definition of residential rental property before assessing the penalty against that property.**

2. How Much is the Penalty Assessment?

The auditor may set the amount of the penalty at any amount that is not less than \$50 or more than \$150.

3. When and How is the Penalty Amount Assessed?

The penalty amount is charged as a special assessment against the real property that is the subject of the violation. Assessments that accrue against a property during the year should be added to the next tax list prepared by the county auditor and billed and collected in the same manner as real property taxes.

For instance, if a residential rental property transfers on October 1, 2007 (the first possible day to transfer property since the effective date of notification and penalty provisions in law is Saturday, September 29, 2007), an owner of the property must file the contact agent information with the county auditor no later than Friday, November 30, 2007 (the sixtieth day following the transfer). If an owner fails to file that information, on Monday, December 3, 2007, the auditor may add that amount to the next tax list to be issued, presumably the 2007 tax list. If the 2007 list has already been prepared, then the penalty amount should be added to the 2008 tax list.

4. Deposit of the Penalty Amount

R.C. Section 5323.99 creates the auditor's authority to assess the penalty amount against property that is the subject of the violation, but the statute does not specify the fund into which the money should be deposited. Since there is no special fund designated by statute, the penalty amounts should be deposited to the credit of the county's general revenue fund pending more specific instruction from the Auditor of State.

5. Appeal of the Penalty Amount

R.C. Section 5323.99 permits the special assessment to be appealed to the county board of revision. Because the statute contains no limitations on who may file such a complaint or when such complaints must be filed, any party may file a complaint at any time against a residential rental property registration penalty, whether it is paid or unpaid.

APPENDIX A -- PRESCRIBED FORMS

Residential Rental Property Registration Notice

Ohio Revised Code Section (R.C.) 5323.02 requires an owner of residential rental property to register a contact agent for that property with the county auditor's office within 60 days (including weekends and holidays) following the day a real property conveyance form for that property is filed with the county auditor. Failure to file this information in a timely manner may result in the assessment of a penalty of up to \$150 against the property that is the subject of the violation.

What is Residential Real Property?

- 1) A real property parcel on which at least one dwelling unit leased or otherwise rented to tenants solely for residential purposes is located.
- 2) A real property parcel that is located in a mobile home park or other permanent or semi-permanent site at which lots are leased or otherwise rented to tenants for parking a manufactured home, a mobile home or a recreational vehicle used solely for residential purposes.
- 3) Residential rental property does not include a hotel or a college or university dormitory.

Who Must File?

R.C. 5323.02 requires an owner of residential rental property to file information about a contact agent with the county auditor. If a property has multiple individual owners only one owner

is required to file as the contact agent. If the property is owned by a trust, business trust, estate, partnership, limited partnership, limited liability company, association, corporation or any other business entity, then one of the following individuals, as indicated below, must file as the contact agent.

If the property is owned by:

- a trust – a trustee must file
- an estate – the executor or administrator must file
- a partnership or a limited partnership – a general partner must file
- a limited liability company – a member, manager or officer of the company must file
- an association – an associate must file
- a corporation – an officer must file
- any other business entity – a member, manager or officer must file

What Information Must Be Filed?

The contact agent must file the name, address and telephone number of the individual who is filing as the contact agent for the property, and the street address and permanent parcel number of the residential rental property.

Please contact your county auditor for additional information about how to register a contact agent.