



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 185

131st General Assembly  
(As Introduced)

**Reps.** Koehler, Grossman, Becker, Amstutz, Buchy, Rezabek

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## BILL SUMMARY

- Expands the offense of arson by prohibiting damage by fire or explosion to abandoned real property without requiring proof that the owner did not consent.
- Creates an affirmative defense that the owner consented to the damage.

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## CONTENT AND OPERATION

### Arson

The bill expands the offense of arson by prohibiting certain acts with respect to abandoned real property and eliminating the requirement that the prosecution prove the lack of the property owner's consent in those instances.

#### Lack of owner's consent

Under current law, there are three situations in which the lack of the owner's consent to damaging the property is an element of the offense:<sup>1</sup>

- When the offender causes or creates a substantial risk of physical harm to the property of another;
- When the offender causes or creates a substantial risk of physical harm to the property of another through the offer or the acceptance of an agreement for hire or other consideration, with the purpose to defraud;

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<sup>1</sup> R.C. 2909.03(B)(1), (4), and (5).

- When the offender causes or creates a substantial risk of physical harm to a park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by another person, the state, or a political subdivision.

The bill retains the existing prohibitions, but it also creates a new prohibition in the offense of arson in those three situations if the property involved is abandoned real property. In the new prohibition, the lack of the owner's consent is not an element of the offense.<sup>2</sup>

### **Consent as an affirmative defense**

Under the bill, a person who is charged with arson that damages abandoned property may assert as an affirmative defense that the person acted with the consent of the owner or, in the case of park or wild land, the consent of the person, state, or political subdivision that owns or controls the land.<sup>3</sup>

### **Definition**

The bill defines "abandoned property" as a parcel of real property that meets one of two criteria:

- The parcel has on it a structure that is dilapidated, unsanitary, unsafe, or vermin-infested and that because of its condition has been designated by an agency that is responsible for the enforcement of housing, building, or fire codes as unfit for human habitation or use;
- Tax or special assessment delinquencies exceeding the fair value of the parcel remain unpaid 35 days after notice to pay has been mailed.<sup>4</sup>

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## **HISTORY**

| <b>ACTION</b> | <b>DATE</b> |
|---------------|-------------|
| Introduced    | 05-05-15    |

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<sup>2</sup> R.C. 2909.03(C).

<sup>3</sup> R.C. 2909.03(D).

<sup>4</sup> R.C. 2909.03(A).

