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H.B. 273
133rd General Assembly

Bill Analysis

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Version: As Reported by House Ways & Means

Primary Sponsors: Reps. Ryan and Lipps

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SUMMARY

- Authorizes the second publication of a county delinquent property tax list to be made online, provided the list's first publication continues to be made in a newspaper of general circulation.
- Authorizes the second and third publication of a notice of an impending property tax foreclosure action to be made online, provided the notice's first publication continues to be made in a newspaper of general circulation.
- Specifies that existing abbreviated newspaper publication procedures for government notices apply to the publication of a property tax foreclosure notice if the second and third publication of the notice continues to be made in a newspaper.

DETAILED ANALYSIS

The bill modifies publication procedures for two delinquent property tax publications – county delinquent tax lists and notices of impending tax foreclosure actions. Specifically, the bill allows a delinquent tax list or a tax foreclosure notice to be published online if the list or notice is first published in a newspaper of general circulation in the county. Under current law, publication of the list or notice must be made two or three times, respectively, in a newspaper. Publishing the delinquent tax list and the notice of a foreclosure action, along with other steps taken during the tax foreclosure process, such as title searching and notification by mail or in person, is meant to fulfill the state's obligation under the Due Process Clause to provide notice to property owners and lienholders of an impending action that may result in the property being taken and sold.

The bill also specifies that if a property tax foreclosure notice is not published online, then all publications of the notice beyond the first may be made in an abbreviated form in a newspaper pursuant to continuing law's abbreviated newspaper publication procedures for government notices.

Publication of delinquent property tax lists

Each year, after the final day for paying property taxes, county auditors certify to county treasurers a list of properties in the county that still have unpaid taxes or assessments. Tax-delinquent properties are assessed penalties and interest.¹ Delinquencies, if not settled, may be enforced as a lien on the property by foreclosure in the courts or, under some circumstances, by an “expedited,” nonjudicial procedure conducted by the board of revision.² Alternatively, the right to collect the delinquent debt may be sold to a third party in a tax certificate sale, which may lead to the property’s foreclosure by the third party.³

Under current law, the county auditor is required to compile and publish a “delinquent tax list” identifying such lands in a newspaper of general circulation. The publication must appear in the newspaper twice within 60 days after the auditor certifies the list to the county treasurer. (Delinquent properties may be spared from appearing on the published list if the property owner pays the delinquency at least seven days before the list is first published.⁴)

In addition to the list, the auditor also must arrange for the publication of a “display” notice in the newspaper in advance of each of the list’s publication dates. The notice states the potential consequences of not paying delinquencies (i.e., foreclosure), how an owner may settle the owner’s delinquency, and the manner in which interest on the delinquency will accrue.

The cost of publishing the list and display notice must be paid from the county treasury. The county’s cost may be recovered by apportioning the cost among local taxing units in proportion to each unit’s share of the delinquent taxes or by imposing a fee on each listed property, which itself may become a lien on the property.⁵

The bill continues to require that the first publication of the list, and both publications of the display notice, to be made in a newspaper, but authorizes the second publication of the list to instead be made on a website maintained or approved by the county. If the second publication of the list is made online, the county auditor is required to remove the list from the selected website two weeks after it is initially posted.⁶

Publication of property tax foreclosure notices

Under continuing law, the first notice of a possible foreclosure action is by publication of the delinquent tax list, as discussed above. Once the list has been published, the treasurer may

¹ R.C. 323.121, not in the bill.

² R.C. 323.25, 323.65 to 323.79, 5721.14, and 5721.18, not in the bill.

³ R.C. 5721.30 to 5721.43, not in the bill.

⁴ R.C. 5721.02, not in the bill.

⁵ R.C. 5721.04, not in the bill.

⁶ R.C. 5721.03(B).

bring a foreclosure action against tax-delinquent property. Typically, a title search is first done to identify lienholders (such as mortgage lenders) or others with a legally enforceable interest in the property. Then, notice of the impending action must be served on the property owner and, in most cases, on the lienholders and other interested parties by mail or in person.

Notice of the foreclosure action also must be published in a newspaper of general circulation once per week for three consecutive weeks.⁷ Once the third publication is made, the notice by publication is considered to be “complete” and the foreclosure process may proceed. The county bears the costs of the publication and the mailed or in-person notices, but may recover the costs from the property owner (if the owner eventually pays the tax debt) or from the proceeds of the sale (if the property ultimately is sold in a tax sale).

Website publication

The bill permits counties to satisfy the foreclosure notice publication requirement by allowing the clerk of courts to publish notices only once, instead of three times, in a newspaper, and by placing the notice on the court’s website or another county government website. If the clerk chooses to publish the notice online, the clerk must also select the publication website.

The website notice must begin to appear one week after the initial newspaper publication and continue to appear until one year after the foreclosure proceeding results in a judgment and finding against the property. The prosecuting attorney must file an affidavit with the court attesting to the notice’s online publication two weeks after the notice is first published on the selected website, which is the time after which service by publication is considered to be “complete.”⁸

Abbreviated newspaper publication

If a county continues to publish foreclosure notices exclusively in a newspaper, the bill specifies that the second and third publication may be published in an abbreviated form, as is authorized under continuing law.⁹

Under this existing abbreviated notice procedure, any state or local government notice or advertisement that is required to be published in a newspaper may be published in an abbreviated form in the same newspaper after its first full publication as long as certain conditions are satisfied. For instance, the full notice or advertisement must be made available on the state public notice website (<https://www.publicnoticesohio.com/>) and the abbreviated publication must contain certain information, including that web address, a statement describing the purpose of the notice or advertisement, and the contact information of the official or body responsible for its publication.¹⁰

⁷ R.C. 323.25, 323.69, 5721.14, and 5721.18.

⁸ R.C. 323.25(D), 323.69(C), 5721.14(C), and 5721.18(A) and (B)(1).

⁹ R.C. 323.25(D), 5721.14(C), and 5721.18(A) and (B)(1).

¹⁰ R.C. 7.16, not in the bill.

HISTORY

Action	Date
Introduced	06-04-19
Reported, H. Ways & Means	11-12-20
