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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research and Drafting

Legislative Budget Office

S.B. 76
135th General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 76's Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Blessing and Antonio

Local Impact Statement Procedure Required: No

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Highlights

- The bill would impose a new tax on an owner of 50 or more single-family, two-family, or three-family dwellings in any one county, of $1,500 for each taxable house per month. The tax would not apply to county land reutilization corporations, port authorities, and charitable organizations that own such properties, or to any person excused from paying for "good cause" by the Tax Commissioner.
- The bill would establish the Housing Market Impact Tax Revenue Fund, into which tax receipts would be deposited. Half of net tax proceeds would be transferred to the Low- and Moderate-income Housing Trust Fund (Fund 6460) and half to the Local Government Fund (LGF, Fund 7069). Under the bill there would be potential receipts to these funds, along with matching expenditures.
- The tax appears prohibitively costly, except perhaps for the most high-valued rental properties. The overwhelming majority of potential taxpayers would likely respond to the bill's enactment by liquidating properties subject to the tax. Consequently the bill would probably raise little or no tax revenue.
- Various reporting requirements in the bill would create administrative costs for the Department of Taxation and for county auditors.

Detailed Analysis

The bill would create a housing market impact tax. The tax would be imposed on a person or group of taxpayers that owns 50 or more taxable houses in a county. The tax would equal $1,500 per month on each taxable house: a single-family, two-family, or three-family dwelling.

Thus an owner of the minimum number of houses subject to the tax would owe $900,000 per year.[1]

Not all persons that own 50 or more houses would owe the tax. The bill excludes county land reutilization corporations (R.C. Chapter 1724), port authorities (R.C. Chapter 4582), and federal income tax-exempt charitable organizations described under section 501(c)(3) of the Internal Revenue Code. In addition, the bill allows the Tax Commissioner to let a person be excused from paying the tax for "good cause" which is not further defined in the bill.

The bill would create the Housing Market Impact Tax Revenue Fund. Revenues to this new fund would be from the tax imposed by the bill. After payment of any refunds due, half of the fund balance would be transferred to the Low- and Moderate-income Housing Trust Fund (Fund 6460). The other half would be transferred to the Local Government Fund (LGF, Fund 7069). Fund 6460 is used by the Department of Development to assist low-income and moderate-income persons through housing construction and renovation grants to nonprofit organizations and housing agencies, related services, and homelessness programs. Through the LGF, the state shares revenue with counties, cities, villages, townships, and other local government units, mostly park districts.

The bill includes various reporting requirements associated with taxable properties, as defined by the bill, including a requirement that income taxpayers who derive any income or loss from such properties provide specified information about the property on their income tax returns. The bill makes it a felony of the fifth degree to provide false information in connection with reports about such properties, and authorizes an additional penalty up to $750,000 for such a violation.

If enacted, bill provisions would apply starting the January 1 following the bill's effective date, so it could go into effect as soon as January 2024. Monthly payments are due the 21st of each month for the preceding month.

Assessment of the new tax

The tax is equivalent to $18,000 annually per taxable one- to three-unit house. It appears prohibitively costly for all but the most high-valued rental properties. Taxpayers with 50 or more such units would likely respond, if the bill is enacted, by selling at least part of their investments in such properties subject to the tax, perhaps by lowering their holdings to 49 or fewer in any one county, or perhaps by selling all of these holdings. The owners of apartment buildings with four or more rental housing units, taxed as commercial property, would not be directly affected by the bill.

Statewide, rent for a single-family home averaged $783 per month in 2021, as shown by an American Community Survey (ACS) query. This was the contract rent for the unit, regardless of any furnishings or other services that may have been provided. It excludes rental home types that appear unlikely to be the subject of the bill.[2] For households renting units in two- to four-unit

[1] $1,500 per house per month multiplied by 50 houses and by 12 months.

[2] Excluded types of homes are those attached to a business, on ten or more acres of land, trailers, mobile homes, recreational vehicles, and boats.

buildings, average rental rates were lower.[3] Including both the single-family rentals and the two- to four-unit dwellings, contract rents averaged $754 per month.

For an average rental, the $1,500 per month additional charge that the bill would impose would ensure that the landlord's investment lost money every month. Landlords would be unable to pass the added expense on to renters both because an average renter would be unable to afford a tripling of the rental cost of housing and because the landlords subject to the $1,500 tax would be competing for tenants with rental units of landlords who own one to 49 units, who would not be subject to the additional charge.

Contract rents in the 2021 ACS sample ranged up to $3,300, which may be constrained to exclude higher values in order to maintain confidentially for the survey respondents. Up to 95% of monthly contract rents were $1,500 or less, implying that increasing rents to pass on to tenants the bill's new charge would require at least a doubling of rents. A few high-end tenants might pay the higher charge but the overwhelming majority would not.

Statewide, the 2021 ACS data show an estimated 600,000 rental housing units, in 505,000 residential structures, are of the types that appear likely to be affected by the bill, apart from how they are owned, i.e., these numbers include rental properties of landlords without regard to how many such properties they own. The overwhelming majority of these rentals are single-family homes (84%), followed by two-unit houses (13%), and three-unit houses (an estimated 3%).

LBO does not know how widespread ownership is of 50 or more one- to three-unit residences in Ohio counties. Data or qualitative information on how many of these properties are owned by landlords who own 50 or more rental homes in a county is not readily available. An internet search found a source that says the average individual who is a landlord rents to 2.5 households or 5.9 individuals. Another website says "fewer than one-fifth of rental properties are owned by for-profit businesses . . . (about 70%) are owned by individuals, who typically own just one or two properties . . . ." This latter source reports an estimate that fewer than 1 million "business entity" landlords nationwide likely own more than 20 units, with some having hundreds of units. These hundreds of units would, however, include those in buildings with four or more units, not the subject of the bill.

Enactment of the bill might lead landlords who would be subject to the new tax to try to sell properties before the next January 1 following the bill's effective date. Depending on the number of properties owned by such a landlord in a locale, real estate market conditions, and the timing of enactment, selling enough properties quickly enough to avoid the tax could prove difficult. The bill potentially could raise tax revenue initially in such cases from landlords who would avoid the tax in subsequent years through property sales.

Revenues and costs

To the extent that the new tax the bill would enact raises revenue, distributions through Fund 6460 and Fund 7069 of additional housing assistance to low-income and moderate-income persons, and additional revenue sharing with local governments, would be increased.

[3] ACS data do not show data on three-unit dwellings separately from four-unit dwellings. Housing permits data indicate that 31% of three- to four-unit buildings constructed since 1980 had three units.

The Department of Taxation and county auditors would incur costs to administer the new tax. For example, the Department's Form IT-1040 would need to be redesigned to accommodate reporting of information about taxable properties. The bill does not provide funding for administration. Costs to the Department to administer property taxes may be paid from Fund 5V80, the Property Tax Administration Fund, or from the GRF through administrative item 110321, Operating Expenses. The bill provides that a county auditor, to the extent that he or she is aware of a person's liability for the new tax, is to include notification on the person's tax bill.

Additional felony convictions stemming from the bill may generate state court cost revenue that is collected locally and forwarded for deposit in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The state court costs total $60 for a felony and $29 for a misdemeanor. The $60 felony amount is divided as follows: $30 to Fund 5DY0 and $30 to Fund 4020. Collecting court costs and fines from certain offenders can be problematic.

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