



Ohio Legislative Service Commission

Tom Wert

Fiscal Note & Local Impact Statement

Bill: H.B. 463 of the 131st G.A.

Date: May 12, 2016

Status: As Passed by the House

Sponsor: Rep. Dever

Local Impact Statement Procedure Required: No

Contents: Modifies judicial sale procedures

State Fiscal Highlights

- The Department of Administrative Services (DAS) will incur some costs for soliciting competitive sealed proposals for the Official Public Sheriff Sale Website in order to carry out judgement sales of residential properties. The vendor chosen to operate the website would recoup its costs through transaction license fees allowed under the bill.
- The bill requires the Attorney General to establish a database of information about judgement and execution sales of residential properties containing one to four single family units and to make the information publicly available. Costs to develop and administer the database would likely range from thousands to potentially hundreds of thousands of dollars, depending on the complexity of the information to be compiled and the particular hardware and software selected to support the database. These costs would likely be paid from the General Reimbursement Fund (Fund 1060).

Local Fiscal Highlights

- The bill creates an expedited process for foreclosure actions in the courts of common pleas when a property is deemed to be vacant and abandoned. This could result in an unknown number of additional foreclosure actions. However, given the large number of new foreclosure actions filed annually, the court systems should be able to handle any new cases without discernible additional ongoing costs.
- The bill allows courts of common pleas to assess court costs not to exceed \$50 for certain actions in an expedited foreclosure process. This may increase court cost revenues for courts which assess the cost. Court costs are generally deposited to the credit of the county general fund in which the court of common pleas has jurisdiction. The number of cases in which this cost would be assessed is not known, but additional revenue is expected to be minimal.

- The bill permits a judgement creditor in a foreclosure action to file a motion requesting that a private selling officer conduct a foreclosure sale rather than a county sheriff. To the extent that private selling officers are requested and approved to conduct the sales, costs for county sheriffs could be reduced substantially.

Detailed Fiscal Analysis

The bill makes changes relative to judicial foreclosure actions, many of which appear to have little or no fiscal effect. However, changes permitting an expedited foreclosure action against residential property that is "vacant and abandoned" and increasing the time within which an action to enforce an obligation to pay a note secured by a mortgage may increase costs for county courts of common pleas. Additionally the bill requires the creation of an official sheriff sale website to be operated by a vendor selected through a competitive sealed proposal process overseen by the Department of Administrative Services (DAS). The bill also requires the Attorney General to oversee a database where data about judicial sales or execution sales of residential property would be collected. Conversely, costs for county sheriffs to carry out sales on these properties could be reduced by a provision that allows private selling officers to conduct these sales. The potential fiscal effects are discussed in more detail under the headings below.

Expedited foreclosure actions

The bill creates an expedited process for foreclosure actions in the courts of common pleas when a property is deemed to be vacant and abandoned. This process requires the court to take certain actions within deadlines set by the bill. These changes have the potential to create an unknown number of additional foreclosure actions for certain vacant and abandoned properties in cases when the current process was deemed too cumbersome to file and will reduce the length of any cases in which a property can be deemed vacant.

Statewide Number of New Foreclosure Filings by Year				
2014	2013	2012	2011	2010
43,728	53,163	70,469	71,556	85,483

Given the large volume of new foreclosure filings in Ohio annually (see table above), the court systems should be able to handle the addition of new cases without discernable ongoing costs.

The bill allows courts of common pleas to assess court costs not to exceed \$50 in certain expedited foreclosure cases when the court is required to order a public official to verify that a property is vacant and abandoned. The number of cases in which this cost would be assessed is not known, but additional revenue for the courts is expected to be minimal.

Private selling officers

Under current law, foreclosure sales are conducted by county sheriffs. Under the bill, the judgement creditor in a foreclosure action may file a motion with the court requesting a private selling officer sell the property instead. To the extent that judgement creditors select and courts approve private selling officers in foreclosure actions, there could be a substantial reduction in workload and costs for county sheriffs. Under the bill, costs related to private selling officers conducting judgment sales are taxed as costs of the sale and paid by the buyer of the property.

Official Public Sheriff Sale Website

The bill requires DAS to solicit competitive sealed proposals for creating, operating, and maintaining the Official Public Sheriff Sale Website and integrated auction management system for conducting judicial sales of real property. Under the bill judicial sales involving residential property are required to be conducted on the website within five years of the website becoming fully operational. Prior to that, these sales could be conducted on the website or at a physical address. The bill also allows for the judicial sale of commercial property via the website but does not specifically require it. In any event, uncodified law in the bill permits the judicial sale of real property to be conducted at a physical address simultaneously with an online sale via the website. Although DAS would incur minimal costs to solicit and review sealed proposals, the creation, operation, and maintenance of the website would have no fiscal effect for the state or political subdivisions. This is because the bill specifies that these costs will be taxed as costs of each sale using a per-transaction license fee model and payable by the buyers of the properties subject to judicial sales.

Unsold foreclosure properties

Beginning 12 months after the entry of a decree of foreclosure on a residential property, in the event that the property has gone unsold and has no sale underway, the bill allows the local political subdivision to request that the county prosecutor file a motion with the court for the sale of the property. Under these circumstances, the bill requires the prosecuting attorney to serve a notice of the motion to all parties who entered an appearance in the foreclosure action. Not sooner than 30 days after the motion is filed with the court, the bill requires the court to order the sale of the property at the next available public auction unless the court finds good cause as to why the property must not be sold. Political subdivisions that pursue the sale of foreclosed properties in this manner would incur negligible administrative costs to request county prosecuting attorneys to file the motion with the court. Likewise, county prosecutors and applicable courts would incur a slight increase in costs for their parts expediting the sale of foreclosed properties in this manner.

Judicial sale database

The bill requires officers appointed or authorized by a court to conduct the judicial or execution sale of residential property consisting of one to four single-family units to submit quarterly reports to the Attorney General that include data about each sale conducted by the officer. The bill requires the Attorney General to establish and maintain a database of the submitted information and make the information included in the database publicly available. Costs incurred by the Attorney General to develop and administer the database would likely range from thousands to potentially hundreds of thousands of dollars, depending on the complexity of the information to be compiled and the particular hardware and software selected to support the database. These costs would likely be paid from the General Reimbursement Fund (Fund 1060).

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