OHIO LEGISLATIVE SERVICE COMMISSION

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# Fiscal Note & Local Impact Statement

**Bill:** H.B. 205 of the 132nd G.A.    **Status:** As Introduced

**Sponsor:** Rep. Barnes    **Local Impact Statement Procedure Required:** Yes

**Subject:** Limits foreclosures and prohibits sale of delinquent property tax certificates for parcels owned and occupied as homesteads for at least 20 years by persons age 65 or older

## State Fiscal Highlights

- No direct fiscal effect on the state.

## Local Fiscal Highlights

- The bill would limit foreclosure for nonpayment of property taxes on homesteads owned for at least 20 years by persons age 65 or older. This may limit collection efforts by local authorities on a substantial portion of up to $140 million of delinquent taxes and assessments. The amount of this estimate is very rough.
- Under the bill, county treasurers could not enforce tax liens against persons in this group if delinquent taxes and other charges are for five or fewer tax years.
- Transferring liens on these properties by selling tax certificates would be prohibited.
- The liens would remain and could be enforced when the prohibitions cease to apply.

## Detailed Fiscal Analysis

On a homestead owned for at least 20 years by a person age 65 or older, the bill would (1) prohibit tax foreclosure if delinquent taxes and other charges are for five or fewer tax years during the current owner's ownership of the property, and (2) prohibit the sale of delinquent property tax certificates. The tax lien would not be extinguished and could be enforced when the parcel ceases to qualify for the limitations in the bill.

Properties with delinquent taxes are concentrated in counties with big cities. A statement published following the tax year (TY) 2016 payment dates showed statewide delinquent property taxes and assessments totaling $1.75 billion, with Cuyahoga County accounting for 28% of this amount. Six predominantly urban counties – Cuyahoga, Montgomery, Summit, Franklin, Lucas, and Hamilton – accounted for 62%. At the other extreme, delinquencies were under $5 million per county in half of the state's counties.[1] Property owners delinquent in payment of taxes receive multiple bills and notices from county treasurers about the delinquent taxes, and some taxes delinquent for a period of time may be paid by the owners before additional steps are taken.

### Prohibition on tax foreclosure on a homestead delinquent for five or fewer years and owned by a senior for 20 years or more

The bill would prohibit the county treasurer from seeking to foreclose on a parcel that meets all of the following criteria: (1) the parcel is owned and occupied as a homestead, (2) the owner-occupant is a person age 65 or older, (3) the owner-occupant has owned the property for at least 20 years, and (4) the lien relates to delinquent taxes charged for five or fewer tax years during the current owner's ownership. These attributes are evaluated in what follows.

Taxes owed on residential real property for 2016 totaled about $11.3 billion. Most of this amount (an estimated 81%) is on owner-occupied property. Residential real property does not include buildings with four or more rental housing units, which are classified as commercial real property for Ohio property tax purposes. Based on the foregoing figures, real property taxes on owner-occupied residences for TY 2016 may have totaled roughly $9.2 billion per year.

This is not the amount that homeowners as a group would have owed, however. Residential as well as agricultural real property qualify for a reduction in taxes owed by the owner that for many years equaled 10%. In addition, homeowners were eligible for a 2.5% reduction in property taxes on their owner-occupied primary residences. The state reimburses local governments for these reductions. In 2013, however, these two credits were restricted to existing and renewal levies, and made inapplicable to new or replacement levies passed after September 29 of that year. As of TY 2016, approximately 93% of levy millage qualified for state reimbursement of the rollbacks.[2] For homeowners claiming the owner occupancy credit and receiving the nonbusiness credit, the effective tax reduction would have been about 11.6% (12.5% times 93%), lowering the amount of tax owed by all homeowners to about $8.1 billion.

In addition, some of these homeowners would have qualified for the homestead exemption, which exempted up to $25,000 of market value of a home from real property taxes, and up to $50,000 for 100% disabled veterans. As with the rollbacks, the state reimburses local governments. To qualify, homeowners must be age 65 or older, or

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[1] These figures are based on the Department of Taxation's TD-1 report on delinquent taxes and assessments on all real and public utility tangible personal property. The report does not show separately delinquencies for residential property or owner-occupied homes. Amounts in the report do not include liens transferred through sale of tax certificates, according to the Department of Taxation.

[2] This percentage is an unweighted summation across taxing districts of levy millage qualifying for reimbursement divided by the unweighted sum of millage for all levies, so is only an approximation.

totally and permanently disabled. Also, the homestead exemption has been limited to low-income homeowners since tax year 2014, but homeowners who qualified for the exemption before then as well as totally disabled veterans remain eligible for the exemption regardless of income. Real property taxes were reduced about $0.4 billion for tax year 2015, which if applied to the amount figured in the previous paragraph would imply taxes due of about $7.7 billion.

This amount compares with the result of a 2016 American Community Survey (ACS) query which found aggregate property taxes reported by survey respondents on owner-occupied residences in Ohio totaled about $8.3 billion.

In the 2016 ACS, 33% of owner-occupied Ohio housing units were owned by persons age 65 and older.[3] These households accounted for a smaller share of property taxes paid than of occupied units, 29%. Based on this estimate, real property taxes on residences occupied by owners age 65 and older may have totaled roughly $2.2 billion to $2.4 billion per year.

The share of these taxes owed by persons who have owned their homes for 20 or more years appears to be sizable. Data from the 2016 ACS indicate that about 62% of Ohio home owners age 65 or older had moved into their homes 20 years earlier or more. Some may have moved in and subsequently become owners, but most are assumed in this analysis to have owned the property when they moved in. Their share of the property taxes owed by persons in this age group is smaller, 58%. Real property taxes on owner-occupied residences of this group might aggregate roughly $1.3 billion to $1.4 billion per year.

Delinquent real property and public utility tangible personal property taxes totaled about $1.36 billion in a table issued following the TY 2016 payment dates, according to the Department of Taxation's TD-1 report dated September 5, 2017. The Department's figures do not break out delinquencies on residential property from those on other types of property. The Department indicated that the report includes delinquencies for both the latest year and earlier years. Net taxes charged on all real and public utility property for TY 2016 were $17.4 billion, implying that delinquencies were 8% of annual taxes owed. Total delinquent special assessments were about an additional $0.38 billion as of the time of the latest report, about 2% of annual net taxes charged. These are aggregate delinquency rates, and the rates for the subset of properties that are the subject of the bill could be lower or higher.

If outstanding delinquent taxes owed averaged 8% on the roughly $1.3 billion to $1.4 billion per year of real property taxes estimated to be owed on owner-occupied residences by persons age 65 or older who lived in these homes for 20 or more years, then roughly $100 million to $110 million of taxes would be delinquent. If delinquent

[3] More precisely, the person identified as the householder in Census Bureau records, or the older of the householder or the householder's spouse if a spouse was present, was age 65 or older.

special assessments owed averaged 2%, then roughly an additional $30 million of special assessments would be delinquent.

The bill applies to qualifying properties owned by persons age 65 and older. The table below shows estimated amounts of tax delinquencies by age group within the age 65 and older population. The estimates, as only rough approximations, are rounded to the nearest $10 million.

| Estimated delinquent real property taxes and assessments of homeowners age 65 and older who owned homes for 20 or more years | | | | | |
|---|---|---|---|---|---|
| | **Age 65 to 70** | **Age 70 to 75** | **Age 75 to 80** | **Age 80 & older** | **Age 65 & older** |
| | **-----%-----** | | | | |
| Share of owner-occupied households | 6% | 5% | 4% | 6% | 21% |
| Share of owner-occupied households' real property taxes | 6% | 4% | 3% | 4% | 17% |
| | **-----Millions of dollars-----** | | | | |
| Delinquent taxes | $30 to $40 | $20 to $30 | $20 | $30 | $100 to $110 |
| Delinquent assessments | $10 | $10 | $10 | $10 | $30 |
| **Total** | **$40 to $50** | **$30** | **$30** | **$30 to $40** | **$130 to $140** |

The portion of these estimated $130 million to $140 million of delinquent taxes and assessments that were delinquent for five or fewer tax years during the current owners' ownership of the properties is not known but could be substantial. Department of Taxation data do not break out the number of years that delinquent taxes have been delinquent. LSC is unaware at this time of other data that shed light on this issue. Plausibly, in many cases parcels on which taxes were delinquent for a number of years approaching five would have been offered for sale at sheriff's sales, or the tax liens would have been included in sales of tax certificates. If this is in fact the case then many of the current delinquencies would have been delinquent for five or fewer years so would qualify for this exclusion from foreclosure.

In view of the calculation process described above, these estimates should be viewed as only rough approximations to the amount of revenue foregone with the bill.

## Prohibition on sale of delinquent property tax certificates for homestead owned by a senior for 20 years or more

The bill would prohibit the county treasurer from selecting for transfer by sale of tax certificates the lien against a parcel on which payment of taxes is delinquent that is owned and occupied as a homestead for at least 20 years by a person age 65 or older. Tax certificates are sold to private buyers as a way for units of local government to recover unpaid property taxes, accelerating receipt of the unpaid taxes by units of local government. The buyer of the certificate takes on the risk that the amount invested in the certificates may not be recovered in subsequent payments from property owners or through foreclosure. Potentially an amount up to the $130 million to $140 million estimated above may be precluded from recovery through tax certificate sales, though the actual amount that would be sold under current law might be substantially less than this.

The certificates are sold for the amount of delinquent taxes owed plus a fee charged by the county treasurer to cover the treasurer's reasonable costs of administering the tax certificate sale. As an inducement to purchase the tax certificates, buyers are owed (by the property owner) the larger of 6% of money invested in the certificates or interest at a rate of up to 18% per year. The interest rate may be set by a bidding process, with the winning buyer bidding the lowest interest rate, or through a negotiated sale.

Most parcels in a county on which property taxes are delinquent are subject to selection by the county treasurer to be included in a sale of tax certificates. Precluding sale of liens through tax certificates on properties owned long term by seniors would foreclose this means of seeking to recover the delinquent taxes owed by persons in this group.

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