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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 85  
135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Patton

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### SUMMARY

- Authorizes land banks to purchase any property subject to tax foreclosure before the property is offered for public sale.
- Allows land banks to exercise a right of first refusal to purchase property sold to another bidder at a tax foreclosure sale.

### DETAILED ANALYSIS

#### Land bank acquisition of property

The bill authorizes two new methods by which land banks may acquire property. The first allows land banks to purchase tax-foreclosed property before it is offered for public sale. The second allows land banks to exercise a right of first refusal to purchase property sold to another bidder at a foreclosure sale.

#### Land bank background

Ohio law authorizes the creation of land bank programs to facilitate the reutilization of nonproductive land. A political subdivision may organize its own land bank program or a county may designate a nonprofit entity, or “county land reutilization corporation” (CLRC), to operate a land bank on its behalf. In either case, the goal of the land bank is to acquire nonproductive and tax-delinquent land and return it to productive use.

Land banks may acquire property by various means, including through purchases, donations, or an owner conveying a property’s deed in lieu of a foreclosure proceeding. However, most properties are acquired through the tax foreclosure process.<sup>1</sup> Before a property is eligible for acquisition, a court must enter a foreclosure decree and, typically, the property

<sup>1</sup> R.C. 5722.03, 5722.04, 5722.10, and 5722.21, not in the bill.

must be offered for public sale. A land bank can acquire foreclosed property before it is offered for sale, but only if the property is abandoned, located in a county with a CLRC, and the subject of an expedited proceeding filed with the county board of revision.<sup>2</sup>

### **Land bank acquisition before sale**

The bill authorizes two additional methods by which a land bank can acquire property. The first method allows a land bank to purchase foreclosed property before it is offered for public sale, when all of the following occur:

1. In the foreclosure complaint, one of the potential remedies listed is the sale of the property to a land bank before a public sale.
2. Within ten days before the final hearing, the county treasurer, acting upon the request of a land bank, files a request with the court requesting the sale. If multiple land banks operating in the same county request a property, the bill specifies which land bank has priority.
3. Notice of the land bank's request is served upon all parties with a recorded interest in the property, unless the party's lien or interest is barred or the party was served with the complaint and failed to answer.
4. No party served with the foreclosure complaint has filed a formal request with the court requesting a public sale. Such a request can be made any time before the final hearing.

### **Purchase price**

If these requirements are met and the court orders the property to be sold, the land bank will pay either (a) the amount of delinquent taxes and interest due, plus the costs of the foreclosure proceeding or (b) the county auditor's current valuation of the property, as discussed below.

The bill allows any party with an interest in the foreclosed property to file a formal certification with the court asserting that interest. If no party asserts an interest, the land bank may purchase the property for the amount of delinquent taxes, interest, and foreclosure costs. However, if any party does assert an interest, the land bank must pay the greater of (a) or (b), above. If the sale price exceeds the amount of delinquent taxes, interest, and foreclosure costs, the court will order the distribution of excess funds to each interest holder.

Similar to current law, a property owner possesses the right to "redeem" the property up until the order of sale by paying any delinquent taxes, interest, and foreclosure costs. If the property is not redeemed, it will be sold to the land bank free and clear of all liens.<sup>3</sup>

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<sup>2</sup> R.C. 323.78, not in the bill.

<sup>3</sup> R.C. 5722.032.

## Right of first refusal

The second acquisition method authorized in the bill allows land banks to exercise a “right of first refusal” after tax-delinquent property is offered at public sale.

Under this procedure, a court enters a foreclosure decree with respect to a tax-delinquent property and orders that it be sold at a public sale. The county sheriff conducts the sale. Within three days after the sale, a land bank may then exercise its right of first refusal – i.e., request to purchase the property for the amount bid by the highest bidder at the auction.

Upon making the request, the land bank is considered the highest bidder at the sale, and the property will be sold to the land bank. If more than one land bank operating in the same county files such a request, the bill specifies which land bank has priority.

The land bank must pay the winning bid amount within 30 days after the sale. It may also assign its right to purchase the land to another land bank, provided that the second land bank pays the purchase price within that 30 day timeframe. As under current law, the owner of the foreclosed property has the right to redeem the property before the final sale order.<sup>4</sup>

## Advertisement of sale

The bill requires that, when a tax foreclosure sale is advertised as required under existing law, the advertisement must include a notice alerting potential bidders that a land bank has a right of first refusal with respect to the sale.<sup>5</sup>

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## HISTORY

Action	Date
Introduced	02-28-23

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<sup>4</sup> R.C. 5722.033.

<sup>5</sup> R.C. 5721.191.