



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Joe McDaniels

H.B. 598

132nd General Assembly
(As Introduced)

Reps. West and Green, Thompson, K. Smith, Seitz, Ashford, Scherer

BILL SUMMARY

- Gives county auditors more discretion over how often tax-forfeited land is offered for sale.
 - Eliminates a requirement that property held by a land bank for more than fifteen years must be offered for sale at a public auction.
 - Expressly immunizes counties from civil liability in connection with tax-forfeited land.
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CONTENT AND OPERATION

The bill makes several changes to laws governing tax-delinquent property that is forfeited or otherwise conveyed to a political subdivision, school district, or land bank.

Delinquent property tax collection

There are various avenues for the enforcement of the lien for delinquent real property taxes. First, in order to prevent foreclosure, a property owner and the county auditor may enter into a delinquent tax contract that allows the owner to pay delinquent taxes in installments over a period of time.¹ A property owner may also convey delinquent property, in lieu of foreclosure, to a political subdivision or county land reutilization corporation (CLRC) that has implemented a land reutilization program (i.e., a land bank).² If a property owner does not pursue either of these options,

¹ R.C. 323.31, not in the bill.

² R.C. 5722.10, not in the bill.

the county treasurer must either transfer the state's lien through the sale of a tax certificate or initiate a foreclosure action to enforce the state's lien.³

Sale of forfeited property

Current law requires county auditors to offer all forfeited property for sale at least one time each year. The bill relaxes this requirement. Instead, the county auditor would be permitted to offer the forfeited property for sale when the auditor determines that a sale is necessary.⁴

Under continuing law, tax-delinquent property is forfeited to the state if, once the lien is foreclosed, the property fails to sell at two public auctions for a minimum price equal to the tax debt and foreclosure costs.⁵ If property fails to sell for a second time, the political subdivision and school district where the property is located and the county land bank (if one exists) are given an opportunity to acquire the property by filing a petition with the court that conducted the foreclosure. If no petition is filed within ten days, the property is forfeited to the state.⁶

Sale of property held by a land bank

The bill eliminates a requirement respecting property that is not sold or transferred within 15 years of its acquisition by a land bank. Under current law, the land bank is required to offer the property for sale at public auction during the sixteenth year for an amount that is the greater of two-thirds of its fair market value or the total amount of the tax debt, foreclosure costs, and the land bank's cost of holding the land. If the property is not sold at that time, the land bank may either dispose of it or retain it for any lawful purpose.⁷

Under the bill, a land bank would be under no obligation to sell or transfer the property at any time. Alternatively, the land bank could put the property to public use or sell it for not less than its fair market value. Continuing law also allows land banks

³ See R.C. 323.25 and 5721.18 (foreclosure actions brought by county treasurer or prosecutor); R.C. 5721.14 (foreclosure and forfeiture proceedings for vacant property); and R.C. 323.65 to 323.79 (nonjudicial foreclosure alternative).

⁴ R.C. 5723.04(A).

⁵ Only one sale attempt is required if the property is unoccupied.

⁶ R.C. 5723.01, not in the bill.

⁷ R.C. 5722.13, repealed by the bill.

to sell property to a CLRC (often for less than fair market value) or transfer property to another subdivision for public use.⁸

Land banks are entities established by political subdivisions ("electing subdivisions" in the statutes) to facilitate the effective reutilization of nonproductive land and reduce blight. Land banks can acquire property by purchasing it at a tax foreclosure auction, entering into a conveyance-in-lieu-of-foreclosure agreement with the property owner, or through forfeiture (see above). Generally, land banks rehabilitate and sell properties to get them back on the tax rolls, or dedicate the properties to public use.⁹

Civil immunity

The bill also expressly immunizes counties – including county officers and employees – from civil liability for damages in connection with tax-forfeited property held by the county. The bill specifies that the immunity extends to a range of environmental violations including those involving underground storage tanks, emissions, sewage, and hazardous substances.¹⁰ Under continuing law, counties and other political subdivisions are granted qualified sovereign immunity for harm allegedly caused by the subdivision or its employees, subject to several exceptions enumerated by law.¹¹ Continuing law grants CLRCs immunity from damages arising from the same range of violations that the bill immunizes counties from.¹²

HISTORY

ACTION	DATE
Introduced	04-17-18

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⁸ R.C. 5722.07, not in the bill.

⁹ See R.C. Chapters 1724. and 5722., not in the bill.

¹⁰ R.C. 5723.20.

¹¹ R.C. Chapter 2744., not in the bill.

¹² R.C. 5722.22.

