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H.B. 602
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Rogers and Lipps

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SUMMARY

- Authorizes an alternative means of publishing notices of impending property tax foreclosure actions by allowing online publication after the notice is published once in a newspaper of general circulation.

DETAILED ANALYSIS

Publication of property tax foreclosure notices

Each year, after the final day for paying property taxes, county auditors certify to county treasurers a list of properties in the county that still have unpaid taxes or assessments. Tax-delinquent properties are assessed penalties and interest.¹ Delinquencies, if not settled, may be enforced as a lien on the property by foreclosure in the courts or, under some circumstances, by an “expedited,” nonjudicial procedure conducted by the board of revision.² Alternatively, the right to collect the delinquent debt may be sold to a third party in a tax certificate sale, which may lead to the property’s foreclosure by the third party.³

Under current law, the first notice of a possible foreclosure action is by publication of a “delinquent tax list” identifying tax-delinquent parcels in a newspaper of general circulation. The publication must appear in the newspaper twice within 60 days after the auditor certifies the list to the county treasurer. Once the list has been published, the treasurer may bring a foreclosure action against tax-delinquent property. Typically, a title search is first done to identify lienholders (such as mortgage lenders) or others with a legally enforceable interest in

¹ R.C. 323.121, not in the bill.

² R.C. 323.25, 323.65 to 323.79, 5721.14, and 5721.18.

³ R.C. 5721.30 to 5721.43, not in the bill.

the property. Then, notice of the impending action must be served on the property owner and on the lienholders and other interested parties by mail or in person.

Notice of the foreclosure action also must be published in a newspaper of general circulation once per week for three consecutive weeks.⁴ Once the third publication is made, the notice by publication is deemed to be “complete.” The county bears the costs of the publication and the mailed or in-person notices, but may recover the costs from the property owner (if the owner eventually pays the tax debt) or from the proceeds of the sale (if the property ultimately is sold in a tax sale).

Publishing the delinquent tax list and the notice of a foreclosure action, along with title searching and notification by mail or in person, is meant to fulfill the state’s obligation under the Due Process Clause to provide notice to property owners and lienholders of an impending action that may result in the property being taken and sold.

Website publication of foreclosure action

The bill permits counties to satisfy the foreclosure publication requirement by publishing only once, instead of three times, in a newspaper, and by placing the notice on a website maintained by the clerk of courts. The website notice must begin to appear the week after the newspaper publication and continue to appear until the foreclosure proceeding results in a judgment and finding against the property. The publication requirement is deemed to be “complete” once the website publication has appeared for two weeks.⁵

HISTORY

| Action | Date |
|------------|----------|
| Introduced | 04-06-20 |

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⁴ R.C. 323.25, 323.69, 5721.14, and 5721.18.

⁵ R.C. 323.25(D), 323.69(C), 5721.14(C), and 5721.18(A) and (B)(1).