



*Synopsis of Senate Committee Amendments**

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Legislative Service Commission

Sub. H.B. 138

127th General Assembly
(S. Judiciary Civil Justice)

The committee adopted amendments to do all of the following:

Provide that if real estate is sold at judicial sale, the court must order that the total of the following amounts be discharged out of the proceeds of the sale: (1) taxes and assessments the lien for which attaches before the confirmation of sale but that are not yet determined, assessed, and levied for the year in which confirmation occurs, apportioned pro rata to the part of that year that precedes confirmation, and any penalties and interest on those taxes and assessments, and (2) all other taxes, assessments, penalties, and interest the lien for which attached for a prior tax year but that have not been paid on or before the date of confirmation.

Require the county treasurer, upon the request of the officer who conducted the sale, to estimate the amount described in clause (1) above, provided that if the county treasurer's estimate exceeds that amount, the officer who conducted the sale must refund to the purchaser the difference between the estimate and the actual amount, and provided that if the actual amount exceeds the county treasurer's estimate, the officer must certify the amount of the excess to the treasurer, who must enter that amount on the real and public utility property tax duplicate opposite the property; the amount of the excess is payable at the next succeeding date prescribed for payment of taxes.

Provide that in an action for foreclosure of a mortgage, the court may at any stage in the action require the mortgagor and the mortgagee to participate in mediation.

Require, in every action demanding the judicial sale of residential real estate consisting of one to four single family units, the party seeking that judicial sale to file with the clerk of the court of common pleas within 14 days after filing the pleadings requesting relief a preliminary judicial report, specify the procedures for filing that report, and require that, prior to submitting any order or judgment entry to a court that would order the sale of residential real estate, the party submitting the order or judgment entry file with the clerk a final judicial report.

* This synopsis does not address amendments that may have been adopted on the Senate floor.

Require, if the action demanding judicial sale involves residential real estate consisting of more than four single family units or commercial real estate, the party seeking that judicial sale to file with the clerk within 14 days after filing the pleadings either a preliminary judicial report or a commitment for an owner's fee policy of title insurance.

Provide that the notice or advertisement for the sale of lands and tenements located in a municipal corporation, if applicable, include the web site address of the officer who makes the sale that allows a person to obtain a complete legal description of the lands and tenements.

Provide that the public notice of the date, time, and place of the sale of lands and tenements taken in execution be published in a newspaper in and of general circulation in the county for at least three weeks instead of 30 days.

Require the purchaser of residential rental property taken in execution to provide contact and other information to the officer who makes the sale.

Permit the officer who will make the sale of lands and tenements that are delinquent vacant tenements or premises or abandoned tenements or premises to hold an open house to allow any person to view the property prior to sale, allow the officer to include a notice of the open house in the public notice of the date, time, and place of the sale, provide that any costs associated with the sale be deducted from the proceeds of the sale of the property, and provide that the officer who holds the open house is not liable for injury, death, or loss to person or property that occurs at the open house.

Provide that the officer making the sale must require the purchaser, including a lienholder, to pay within 30 days of the confirmation of sale the balance due on the purchase price.

Modify current law with regard to penalties by allowing the court to punish any purchaser of lands and tenements sold pursuant to an execution or order of sale who fails to pay within 30 days of the confirmation of the sale the balance due on the purchase price of the lands and tenements by forfeiting the sale of the lands and tenements and returning any deposit paid in connection with the sale of the lands and tenements, by forfeiting any deposit paid in connection with the sale of lands and tenements, as for contempt, or in any other manner the court considers appropriate.

Require the attorney who files the writ of execution, instead of the officer making the sale, not later than seven days after the filing of the order of confirmation of the sale, to make to the purchaser a deed and deliver the deed to the officer who sold the property.

Modify the requirement that the officer who sells the property record the deed with the county recorder within 14 days of the date the officer makes the deed and instead requires the officer to record the deed within 14 business days of the date the purchaser pays the balance due on the purchase price.

Provide that if service by publication is necessary in an action to foreclose a mortgage or to enforce a lien or other encumbrance or charge on real property, the party seeking service by publication must cause the publication to be made once a week for three consecutive weeks instead of as provided by Civil Rule 4.4.

Modify the provision that allows the municipal corporation or township in which is located real property that is subject to a writ of execution to inspect any structures on the property by specifying that the inspection take place prior to the judicial sale.

Provide that when a complaint is filed, the action is pending so as to charge a third person with notice of its pendency.

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