

H. B. No. 632
As Introduced

_____ moved to amend as follows:

- In line 1 of the title, after "sections" insert "2127.38," 1
- In line 4 of the title, delete "and"; after "2329.52" insert ", and 2
5721.10" 3
- In line 5 of the title, after "foreclosures" insert "and estate 4
executor fees" 5
- In line 6, after "sections" insert "2127.38," 6
- In line 8, delete "and"; after "2329.52" insert ", and 5721.10" 7
- After line 9, insert: 8
- "Sec. 2127.38.** The sale price of real property sold 9
following an action by an executor, administrator, or guardian 10
shall be applied and distributed as follows: 11
- ~~(A)~~ (A) (1) To discharge the costs and expenses of the 12
sale, including reasonable fees to be fixed by the probate court 13
for services performed by attorneys for the fiduciary in 14
connection with the sale, and compensation, if any, to the 15
fiduciary for services in connection with the sale as the court 16



may fix, which costs, expenses, fees, and compensation shall be 17
paid prior to any liens upon the real property sold and 18
notwithstanding the purchase of the real property by a lien 19
holder; 20

(2) If the estate is insolvent or if, following the 21
application and distribution of the sale proceeds under this 22
section, the real and personal property in the possession or 23
under the control of the executor or administrator of the estate 24
is insufficient to pay the costs, expenses, or fees incurred by 25
the executor or administrator in the course of executing the 26
entire estate, including fees for services performed by 27
attorneys employed by the executor or administrator in relation 28
to the execution of the entire estate, a court may fix which of 29
those costs, expenses, and fees, in addition to the costs, 30
expenses, fees, and compensation authorized by division (A) (1) 31
of this section, shall be paid prior to any liens placed on or 32
after the effective date of this amendment, upon the real 33
property sold and notwithstanding the purchase of the real 34
property by a lien holder. 35

(B) To the payment of taxes, interest, penalties, and 36
assessments then due against the real property, and to the 37
payment of mortgages and judgments against the ward or deceased 38
person, according to their respective priorities of lien, so far 39
as they operated as a lien on the real property of the deceased 40
at the time of the sale, or on the estate of the ward at the 41
time of the sale, that shall be apportioned and determined by 42
the court, or on reference to a master, or otherwise; 43

(C) (1) In the case of an executor or administrator, the 44
remaining proceeds of sale shall be applied as follows: 45

(a) To the payment of legacies with which the real 46

property of the deceased was charged, if the action is to sell 47
real property to pay legacies; 48

(b) To discharge the claims and debts of the estate in the 49
order provided by law. 50

(2) Whether the executor or administrator was appointed in 51
this state or elsewhere, the surplus of the proceeds of sale 52
shall be considered for all purposes as real property, and be 53
disposed of accordingly." 54

After line 753, insert: 55

"Sec. 5721.10. Except as otherwise provided under section 56
2127.38 or 5301.93, or sections 5721.30 to 5721.43 of the 57
Revised Code, the state shall have the first lien on the lands 58
and lots described in the delinquent land list, for the amount 59
of taxes, assessments, interest, and penalty charged prior to 60
the delivery of such list. If the taxes have not been paid for 61
one year after having been certified as delinquent, the state 62
shall institute foreclosure proceedings in the manner provided 63
by section 323.25, sections 323.65 to 323.79, or sections 64
5721.01 to 5721.28 of the Revised Code, unless a tax certificate 65
respecting that property has been sold or assigned under section 66
5721.32 or 5721.33 of the Revised Code, or unless such taxes are 67
the subject of a valid delinquent tax contract under section 68
323.31 of the Revised Code for which the county treasurer has 69
not made certification to the county auditor that the delinquent 70
tax contract has become void. The court shall levy, as costs in 71
the foreclosure proceedings instituted on the certification of 72
delinquency, the cost of an abstract or certificate of title to 73
the property described in the certification, if it is required 74
by the court, to be paid into the general fund of the county. 75
Sections 5721.01 to 5721.28 of the Revised Code do not prevent 76

the partial payment of such delinquent taxes, assessments, 77
interest, and penalty during the period the delinquency is being 78
discharged in accordance with a delinquent tax contract under 79
section 323.31 of the Revised Code, but the partial payments may 80
be made and received as provided by law without prejudice to the 81
right of the state to institute foreclosure proceedings for any 82
amount then remaining unpaid, if the county treasurer certifies 83
to the county auditor that the delinquent tax contract has 84
become void. " 85

In line 754, after "sections" insert "2127.38," 86

In line 756, delete "and"; after "2329.52" insert ", and 5721.10" 87

The motion was _____ agreed to.

SYNOPSIS 88

Estate executor fees 89

R.C. 2127.38 and 5721.10 90

Allows a court, for estates that have insufficient funds 91
to pay the costs of administering the estate, to fix which of 92
those costs are to be paid prior to any liens placed on the 93
property on or after the effective date of the amendment. 94