



Representatives Richard D. Brown and DJ Swearingen ***State Representatives, District 5 and District 89***

Civil Justice Committee, Sponsor Testimony on House Bill 390 **April 9, 2024**

Chair Hillyer, Vice Chair Mathews, Ranking Member Isaacsohn, and members of the Civil Justice Committee, thank you for giving my joint sponsor, Representative Swearingen, and me the opportunity to give sponsor testimony on House Bill (HB) 390.

HB 390 will revise existing Ohio law regarding the providing of notice of the existence of excess funds to judgment debtors after mortgage foreclosure sales and to delinquent taxpayers after property tax foreclosures. Excess funds may occur if, after an individual's property has been foreclosed on, the sales price at the foreclosure sale exceeds the borrower's or taxpayer's delinquent balance. Once the delinquency or judgment is satisfied, any additional funds go back to the former homeowner (the judgment debtor), or, the taxpayer.

Under current section 2329.44 of the Ohio Revised Code, these excess funds must, in certain circumstances, be returned to the judgment debtor by the County Clerk of Court. The law requires that if there is \$100 or more in excess funds, the Clerk must send a notice to the judgment debtor advising of the existence of the excess funds, and, the amount of funds to be returned.

The current notification process to the judgment debtor is as follows: The Clerk of Court is required to send the notice of excess funds first by certified mail. If the certified mail is returned with an endorsement showing a failure to deliver or a refusal to accept the delivery, then the notice must be re-sent by ordinary mail. If the ordinary mail effort also fails and the notice is returned for any reason, the Clerk then must send the notice by an advertisement in a local newspaper of general circulation in the county. This process is a tedious and costly requirement, and is particularly futile where the name and/ or current address of the judgment debtor is unknown.

The Clerks of Court Association brought to our attention the issue of having to send notices to individuals whose names and/ or addresses are unknown. The Clerks Association advocates that the law be revised in order to streamline the current process in order to save time and money. In counties across Ohio, particularly in larger counties, where the name and/or current address of a judgment debtor is often unknown, the Clerk is currently required to mail the notice to the judgment debtor, resulting in an expenditure of money for postage and paper to mail a notice that cannot be delivered. The Clerks have told me they literally have to address the



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notice to “John Doe”, “Address Unknown.” This is an unnecessarily costly, futile notification endeavor.

If signed into law, HB 390 will make the following common sense changes:

- Increase the amount required to “trigger” a more comprehensive notice from \$100 to \$500;
- Eliminate the requirement that the Clerk of Courts mail a notice to a judgment debtor whose address is unknown;
- Update the current process to allow notification in certain circumstances to be made either by: a posting on the Clerk of Court’s website; sending a text message to the judgment debtor; or, posting the notice in a conspicuous place in the Court where the action was commenced; and,
- Require that the tax foreclosure and mortgage foreclosure excess funds notification processes to mirror each other.

By mirroring the process of notification of excess funds in tax foreclosure matters with that of mortgage foreclosure we will create uniformity in the Revised Code and simplify for our Clerks of Court the processes of distributing funds.

It is clear these changes will ultimately allow us to help save taxpayer money, streamline the process for our elected officials, and, in turn, give Ohioans a better opportunity to receive the excess funds to which they are entitled. Representative Swearingen and I would be happy take questions. Thank you.