



SENATE COMMUNITY REVITALIZATION COMMITTEE

Senate Bill 36 Opponent Testimony

Wednesday, March 22, 2023

Chair Johnson, Vice Chair Hoagland, Ranking Member Sykes, and members of the Senate Community Revitalization Committee, I appreciate this opportunity to testify in opposition to Senate Bill 36 (SB 36). My name is Don Boyd, and I am Vice President of State Government Relations and General Counsel for the Ohio Bankers League.

Position

SB 36, introduced by Senators Blessing and Ingram, would ban bulk purchases of foreclosed homes and create a new structure regarding who and when certain bidders would be permitted to enter the process. While banks do not appear to be the target of this particular legislation, the changes contemplated in the bill could have a significant detrimental impact on Ohio's banks. SB 36 would add additional time to an already cumbersome process, when time is of the essence to protect the bank's collateral, and potentially prevent banks from mitigating potential losses from the sale of a foreclosed home.

The Ohio Bankers League

The Ohio Bankers League is the state's leading trade association for the Ohio banking industry—and is Ohio's only organization focused on meeting the needs of all banks and thrifts in the Buckeye State. For more than 130 years, the OBL has been the voice of the Ohio banking industry fostering a cooperation that has made it one of the strongest and most reputable financial trade associations in the country.

By linking banks, bankers, and industry experts—and by pooling their intellectual and capital resources—the OBL serves as a powerful creator of knowledge and collective resources. The non-profit association is comprised of more than 170 FDIC-insured financial institutions including commercial banks, savings banks, and savings and loan associations ranging in size from just over \$14 million in assets to more than \$3.5 trillion and employing over 60,000 Ohioans.

Concerns

Foreclosures are most often auctioned at sheriff's sales where the highest bidder wins the property. Under this bill, a corporation or institutional investor can still be the highest bidder, but if they are, there will be a 45-day waiting period. During that time, someone who is renting that property has the first opportunity to buy it. They would have to pay equal to the winning bid and sign an affidavit promising to live in the property for a year. If that doesn't happen, during that same 45-day window, the property could be purchased by another buyer who is willing to pay more than the winning bid and live in the property for at least a year. At this second tier, non-profit groups involved in providing affordable housing as well as cities themselves, could purchase the property. If after 45 days, neither the first or second tier buyers purchase it, the corporation would be able to go through with the deal and own it outright.

Addressing statewide housing issues such as helping potential first-time homebuyers navigate the real-estate market and foreclosures process is important. However, SB 36 raises concerns regarding a bank's role in the foreclosure process. Additional discussion is needed to better understand the position a bank, as the mortgage lien holder would be in throughout this modified foreclosure process. At minimum, the bank or entity bringing the foreclosure action should be exempted from the proposed process and not be subject to the 45-day waiting period. The proposed 45-day waiting period creates jeopardy for the plaintiff to a foreclosure if during the sheriff's sale there are no bids or bids at a low amount and the bank, in an effort to protect its loan balance, bids to purchase the property back. The actual auction price may not be close in value to what that bank believes it could get in a non-distressed sale of the property. Mortgage lien holders need the ability to protect the value in their collateral. Exempting mortgage lien holders who bring the foreclosure action from this tiered "eligible bidders" structure and 45-day waiting period would ensure the lien holder's ability to protect their value in the collateral.

Another aspect of this concern is whether the lender would be considered a corporate or institutional investor as defined by the legislation. Lenders will typically buy in property at the lowest possible price. If the lender is considered to be a "corporate or institutional investor" that would force the lender to reconsider its bidding strategy. This could lead to unintended consequences such having those lenders lose their ability to collect any deficiency from the borrower because the lender had to overbid on the property to reduce the likelihood of having a third-party buyer utilize the 45-day window to purchase the property at the value the lender bid.

One final concern raised by the proposals within SB 36 is the slowdown of the foreclosures process in total. By mandating a 45-day waiting period in an instance where a corporate or institutional investor has the highest bid at a foreclosure sale, this inevitably delay the buyer's ability to eventually take possession of the property as well as delaying the foreclosure process.

OBL has had positive discussions with the sponsors of this legislation and appreciates their willingness to the concerns raised by our members. However, at this time, OBL urges your opposition to SB 36. Thank you for your time and I would be happy to try to answer any questions.