

As Introduced

136th General Assembly

Regular Session

2025-2026

H. B. No. 55

Representative Stewart

A BILL

To amend sections 2127.38 and 5721.10 of the
Revised Code to amend the law related to fees
for the administration of a probate estate.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2127.38 and 5721.10 of the
Revised Code be amended to read as follows:

Sec. 2127.38. The sale price of real property sold
following an action by an executor, administrator, or guardian
shall be applied and distributed as follows:

~~(A)~~ (A) (1) To discharge the costs and expenses of the
sale, including reasonable fees to be fixed by the probate court
for services performed by attorneys for the fiduciary in
connection with the sale, and compensation, if any, to the
fiduciary for services in connection with the sale as the court
may fix, which costs, expenses, fees, and compensation shall be
paid prior to any liens upon the real property sold and
notwithstanding the purchase of the real property by a lien
holder;

(2) If the estate is insolvent or if, following the
application and distribution of the sale proceeds under this

section, the real and personal property in the possession or 20
under the control of the executor or administrator of the estate 21
is insufficient to pay the costs, expenses, or fees incurred by 22
the executor or administrator in the course of administering 23
the entire estate, including fees for services performed by 24
attorneys employed by the executor or administrator in relation 25
to the administration of the entire estate, a court may fix 26
which of those costs, expenses, and fees, in addition to the 27
costs, expenses, fees, and compensation authorized by division 28
(A) (1) of this section, shall be paid prior to any liens placed 29
on or after the effective date of this amendment, upon the real 30
property sold and notwithstanding the purchase of the real 31
property by a lien holder. 32

(B) To the payment of taxes, interest, penalties, and 33
assessments then due against the real property, and to the 34
payment of mortgages and judgments against the ward or deceased 35
person, according to their respective priorities of lien, so far 36
as they operated as a lien on the real property of the deceased 37
at the time of the sale, or on the estate of the ward at the 38
time of the sale, that shall be apportioned and determined by 39
the court, or on reference to a master, or otherwise; 40

(C) (1) In the case of an executor or administrator, the 41
remaining proceeds of sale shall be applied as follows: 42

(a) To the payment of legacies with which the real 43
property of the deceased was charged, if the action is to sell 44
real property to pay legacies; 45

(b) To discharge the claims and debts of the estate in the 46
order provided by law. 47

(2) Whether the executor or administrator was appointed in 48

this state or elsewhere, the surplus of the proceeds of sale 49
shall be considered for all purposes as real property, and be 50
disposed of accordingly. 51

Sec. 5721.10. Except as otherwise provided under section 52
2127.38 or 5301.93, or sections 5721.30 to 5721.43 of the 53
Revised Code, the state shall have the first lien on the lands 54
and lots described in the delinquent land list, for the amount 55
of taxes, assessments, interest, and penalty charged prior to 56
the delivery of such list. If the taxes have not been paid for 57
one year after having been certified as delinquent, the state 58
shall institute foreclosure proceedings in the manner provided 59
by section 323.25, sections 323.65 to 323.79, or sections 60
5721.01 to 5721.28 of the Revised Code, unless a tax certificate 61
respecting that property has been sold or assigned under section 62
5721.32 or 5721.33 of the Revised Code, or unless such taxes are 63
the subject of a valid delinquent tax contract under section 64
323.31 of the Revised Code for which the county treasurer has 65
not made certification to the county auditor that the delinquent 66
tax contract has become void. The court shall levy, as costs in 67
the foreclosure proceedings instituted on the certification of 68
delinquency, the cost of an abstract or certificate of title to 69
the property described in the certification, if it is required 70
by the court, to be paid into the general fund of the county. 71
Sections 5721.01 to 5721.28 of the Revised Code do not prevent 72
the partial payment of such delinquent taxes, assessments, 73
interest, and penalty during the period the delinquency is being 74
discharged in accordance with a delinquent tax contract under 75
section 323.31 of the Revised Code, but the partial payments may 76
be made and received as provided by law without prejudice to the 77
right of the state to institute foreclosure proceedings for any 78
amount then remaining unpaid, if the county treasurer certifies 79

to the county auditor that the delinquent tax contract has	80
become void.	81
Section 2. That existing sections 2127.38 and 5721.10 of	82
the Revised Code are hereby repealed.	83