

As Passed by the Senate

136th General Assembly

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Am. H. B. No. 55

Representative Stewart

Cosponsors: Representatives Brennan, Brent, Brownlee, Callender, Glassburn, Grim, Gross, Hall, D., Hiner, Humphrey, Isaacsohn, Jarrells, King, Lawson-Rowe, Mathews, A., Mathews, T., Miller, J., Mohamed, Newman, Oelslager, Piccolantonio, Plummer, Rogers, Russo, Sigrist, Sims, Somani, Sweeney, Synenberg, Tims, Williams, Willis

Senators Manning, Antonio, Blackshear, Cirino, Craig, DeMora, Gavarone, Hicks-Hudson, Ingram, Reineke, Reynolds, Roegner, Timken, Wilson

A BILL

To amend sections 2127.38 and 5721.10 of the 1
Revised Code to amend the law related to fees 2
for the administration of a probate estate. 3

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

Section 1. That sections 2127.38 and 5721.10 of the 4
Revised Code be amended to read as follows: 5

Sec. 2127.38. The sale price of real property sold 6
following an action by an executor, administrator, or guardian 7
shall be applied and distributed as follows: 8

~~(A)~~ (A) (1) To discharge the costs and expenses of the 9
sale, including reasonable fees to be fixed by the probate court 10
for services performed by attorneys for the fiduciary in 11
connection with the sale, and compensation, if any, to the 12
fiduciary for services in connection with the sale as the court 13

may fix, which costs, expenses, fees, and compensation shall be 14
paid prior to any liens upon the real property sold and 15
notwithstanding the purchase of the real property by a lien 16
holder; 17

(2) If the estate is insolvent or if, following the 18
application and distribution of the sale proceeds under this 19
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, not to exceed an 27
aggregate of five thousand dollars, in addition to the costs, 28
expenses, fees, and compensation authorized by division (A) (1) 29
of this section, shall be paid prior to any liens placed on or 30
after the effective date of this amendment, upon the real 31
property sold and notwithstanding the purchase of the real 32
property by a lien holder. 33

(B) To the payment of taxes, interest, penalties, and 34
assessments then due against the real property, and to the 35
payment of mortgages and judgments against the ward or deceased 36
person, according to their respective priorities of lien, so far 37
as they operated as a lien on the real property of the deceased 38
at the time of the sale, or on the estate of the ward at the 39
time of the sale, that shall be apportioned and determined by 40
the court, or on reference to a master, or otherwise; 41

(C) (1) In the case of an executor or administrator, the 42
remaining proceeds of sale shall be applied as follows: 43

(a) To the payment of legacies with which the real 44
property of the deceased was charged, if the action is to sell 45
real property to pay legacies; 46

(b) To discharge the claims and debts of the estate in the 47
order provided by law. 48

(2) Whether the executor or administrator was appointed in 49
this state or elsewhere, the surplus of the proceeds of sale 50
shall be considered for all purposes as real property, and be 51
disposed of accordingly. 52

Sec. 5721.10. Except as otherwise provided under section 53
2127.38 or 5301.93, or sections 5721.30 to 5721.43 of the 54
Revised Code, the state shall have the first lien on the lands 55
and lots described in the delinquent land list, for the amount 56
of taxes, assessments, interest, and penalty charged prior to 57
the delivery of such list. If the taxes have not been paid for 58
one year after having been certified as delinquent, the state 59
shall institute foreclosure proceedings in the manner provided 60
by section 323.25, sections 323.65 to 323.79, or sections 61
5721.01 to 5721.28 of the Revised Code, unless a tax certificate 62
respecting that property has been sold or assigned under section 63
5721.32 or 5721.33 of the Revised Code, or unless such taxes are 64
the subject of a valid delinquent tax contract under section 65
323.31 of the Revised Code for which the county treasurer has 66
not made certification to the county auditor that the delinquent 67
tax contract has become void. The court shall levy, as costs in 68
the foreclosure proceedings instituted on the certification of 69
delinquency, the cost of an abstract or certificate of title to 70
the property described in the certification, if it is required 71
by the court, to be paid into the general fund of the county. 72
Sections 5721.01 to 5721.28 of the Revised Code do not prevent 73

the partial payment of such delinquent taxes, assessments, 74
interest, and penalty during the period the delinquency is being 75
discharged in accordance with a delinquent tax contract under 76
section 323.31 of the Revised Code, but the partial payments may 77
be made and received as provided by law without prejudice to the 78
right of the state to institute foreclosure proceedings for any 79
amount then remaining unpaid, if the county treasurer certifies 80
to the county auditor that the delinquent tax contract has 81
become void. 82

Section 2. That existing sections 2127.38 and 5721.10 of 83
the Revised Code are hereby repealed. 84