

AN ACT

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 under the control of the executor or administrator of the estate is insufficient to pay the costs, expenses, or fees incurred by the executor or administrator in the course of administrating the entire estate, including fees for services performed by attorneys employed by the executor or administrator in relation to the administration of the entire estate, a court may fix which of those costs, expenses, and fees, not to exceed an aggregate of five thousand dollars, in addition to the costs, expenses, fees, and compensation authorized by division (A)(1) of this section, shall be paid prior to any liens placed on or after the effective date of this amendment, upon the real property sold and notwithstanding the purchase of the real property by a lien holder.

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

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

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

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

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

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

SECTION 2. That existing sections 2127.38 and 5721.10 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. H. B. No. 55

136th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____