



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 135
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 135's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. Brenner

Local Impact Statement Procedure Required: No

Robert Meeker, Senior Budget Analyst

Highlights

- The bill makes changes to the procedures for both execution and foreclosure sales. These cases are handled at the local level, and any fiscal impact on local governments to adopt these new procedures is likely to be minimal. Any resultant recovery of locally owed taxes or other moneys (e.g., certain utility expenses, fines, and liens), through the sale of real property is uncertain but likely not significant.
- County sheriffs may see a reduction in foreclosure sales resulting in a reduction in operating expenses and a corresponding reduction in revenues received to provide those services.
- The bill has no direct fiscal effect on the state.

Detailed Analysis

The bill makes various changes related to the law regarding the procedures for both execution and foreclosure sales. The bill modifies requirements for appraisals of property in such sales, and makes various changes to the requirements regarding sale notification, sale timelines, and online auctions. Additionally, the bill permits a court to allow for certain costs of administering an estate to be paid prior to any liens placed on a property when such property is sold and the estate does not have sufficient costs to pay for the administration of the estate.

The overall practical effect of the bill is that local entities currently involved in execution and foreclosure sales will be required to adopt new procedures (courts, auditors, sheriffs, recorders, treasurers, and any other impacted local taxing entities). The fiscal impact on local governments to adopt these new procedures is likely to be one time and minimal. Any resultant recovery of locally owed taxes or other moneys (i.e., certain utility expenses, fines, and liens), through the sale of real property is uncertain but likely not significant.

Appraisal before a sale

Current law requires that property sold at such a sale be appraised by three independent freeholders within 21 days of an appraisal order issued by the clerk of courts. The bill requires that the freeholders are unaffiliated with the sheriff or private selling officer and are Ohio-licensed (1) real estate brokers, (2) salespersons, or (3) appraisers, and that the appraisal is completed within 14 days of an order. If the appraisals are not conducted within 14 calendar days, the bill prohibits the individuals conducting the appraisals from being paid and requires the auditor's most recent appraised value of the property to be used.

County sheriffs

Related to the role of county sheriffs in the foreclosure process, the bill allows plaintiffs seeking a mortgage foreclosure or execution sale to demand the use of a private selling officer to sell the property in certain instances rather than the county sheriff. If any lienholder who is a party to the sale objects to the use of a private seller, the court may order that the sale be reset, republished, and conducted by the county sheriff.

Additionally, whether through a private seller or a county sheriff, the bill reduces the required amount of time for an online sale to be carried out from seven to three calendar days, and requires online sales to display all bids during the auction. The bill also requires that only initial notices of sales (instead of all notices, as under current law) be published in a newspaper of general circulation and allows subsequent notices to appear on the sheriff's or private seller's website.

County sheriffs generally will not see an increase in expenses to display all bids during an auction as a majority of departments use a third party to run online auctions online and the fee for that service is taken from the sale proceeds. The departments will also realize no savings from the removal of subsequent newspaper publishing requirements as they do not pay for print advertising under current practice. To the extent that private selling officers are requested and approved to conduct the sales, costs for county sheriffs could be reduced, with a corresponding decrease in sale revenue directed to the departments.

Estate executor fees

For estates that have insufficient funds to pay the costs of administering the estate, the bill allows a court to fix which of those costs are to be paid prior to any liens placed on a property sold on or after the effective date of the bill and limits those costs to \$5,000. This provision may reduce the amount of revenue collected by a public lien holder in cases which qualify under the bill, the impact of which is likely minimal.