



## **SB 356 Proponent Testimony**

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**Senate Local Government, Public Safety and  
Veterans Affairs Committee**

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Chair Manning, Vice-chair Brenner, Ranking Member Maharath and members of the Committee. I am pleased to provide proponent testimony today on behalf of the Ohio Land Bank Association and offer my strong support for SB 356. Below you will find a summary of the bill's provisions.

### **PROVISIONS OF THE BILLS**

#### **County Land Reutilization Corporations/Land Reutilization Programs**

##### **R.C. 1724.02**

Affirms and clarifies that for purposes of the powers enumerated in the Land Bank statutes, a county land reutilization corporation is not subject to local and state taxes including sales taxes under R.C. Chapter 5739 This serves to facilitate economic development projects. Provides that a county land reutilization corporation is not a "Public Authority" under Chapter 4115 of the Revised Code, but retains its non-profit status under Chapter 1724.

##### **R.C. 5722.111**

This amendment enables a board of county commissioners to provide a supplemental form of funding for county land reutilization corporations which applies only in situations where a tax delinquent abandoned property enters a county land reutilization corporation's inventory. If the non-collectable abandoned property is thereafter curated, renovated, and placed into responsible hands, and back on the tax duplicate, up to fifty percent (50%) of future real estate taxes would be remitted to the county land reutilization corporation for up to five (5) years. The board may prescribe which taxing districts will be subject to such resolution. Most modern land banks throughout the country (except Ohio) receive a modicum of income through this type of enabling legislation. If a board of county commissioners elects not to pass such a resolution, then no future taxes will be remitted to the county land reutilization corporation.

##### **R.C. 5739.02**

Under the numerous exemptions from sales taxes, county land reutilization corporations are also listed while operating within their enumerated public purposes. This also promotes the county land reutilization corporation's role as a facility for economic development.

#### **Tax Foreclosure/Delinquent Lands**

##### **R.C. 5721.182 (NEW SECTION)**

Service by publication is very common in the area of tax foreclosure of abandoned properties, costing hundreds of thousands of dollars in publication costs, especially in larger counties. This amendment allows the prosecutor to perfect service by publication in electronic form through a county platform. It will save upwards of \$700,000 to \$800,000 just in Cuyahoga County alone.

R.C. 5721.183 (NEW SECTION)

In order to better determine the condition of an abandoned property and to avoid speculation in condemned properties, a new amendment is added which creates limited authority (mirroring existing authority under R.C. 5723.04) during a pending tax foreclosure to enter an abandoned home to determine whether it is suitable for renovation and to gauge the safety conditions. It requires court supervised filings and the access is very limited to land banks and city code inspections. Over the years, violent crimes and murders have occurred in abandoned properties, and this limited access during a tax foreclosure is designed to also assist safety forces (policemen, firemen, prosecutors).

**MINOR AND/OR TECHNICAL AMENDMENTS**

**County Land Banks/Land Reutilization Programs**

R.C. 317.32

Current law exempts all land banks from paying certain recording fees. The amendment clarifies that the exemption for municipal or township land banks (i.e., other than county land reutilization corporations) only applies to instruments transferring properties into the municipality's or township's land reutilization program.

R.C. 323.261

Clarifies that in the event a county elects to collect an additional Delinquent Tax and Assessment Collection (DTAC) fee for the benefit of a county land reutilization corporation, those additional fees should be deposited into the county land reutilization corporation fund created pursuant to RC 321.263.

R.C. 321.263

Clarifies that a county land reutilization corporation fund shall be established in a county that elects to form a county land reutilization corporation, even if the county chooses not to make advanced payments under RC 321.341.

R.C. 505.86

Existing law allows county land reutilization corporation to serve as agents of municipalities for the purpose of select nuisance abatement activities. This amendment clarifies that county land reutilization corporations may serve in the same capacity for townships.

R.C. 721.28

Existing law allows cities to transfer properties without competitive bidding if used for urban redevelopment or urban renewal. The amendment clarifies that competitive bidding is likewise not required when transferred to a county land reutilization corporation.

R.C. 1724.11

Exempts certain electronic records created by CICs (i.e. proprietary work product) from Ohio's Public Records Act.

R.C. 3745.11

Clarifies that asbestos notice fees imposed by OEPA is still required for notification purposes, but prohibits a local air authority from charging an additional local fee for the review of the same asbestos notice.

R.C. 3737.87

County land reutilization corporations are given safe harbor for contaminated sites in their inventory so long as they do not disturb the site. The amendment clarifies and makes consistent that a county land reutilization corporation is therefore not a “responsible person” for purposes of underground tanks. Expands definition of a “Class C Release” to include a release on any property owned by a county land reutilization corporation or that is owned by the state by virtue of being on the forfeited lands list.

R.C. 5709.12

Clarifies existing law that properties coming into a land bank become tax exempt upon acquisition, and the property becomes taxable once again upon transfer out of the land bank effective on January 1<sup>st</sup> of the immediate year following the property transfer.

R.C. 5722.02

Eliminates the system of municipal preemptory rights for lands after they entered into the county land reutilization corporation’s inventory. The system is unwieldy and has not been used. It is surplusage in that municipal land banks already have first choice in directing foreclosed properties into their respective inventories.

**Tax Foreclosure/Delinquent Lands**

R.C. 323.25

Allows publication by service to be made electronically.

R.C. 323.26

Clarifies that in addition to a complaint for foreclosure alleging the amount of the tax due by “certified copy of the entry on the tax duplicate . . .” the Treasurer can also allege the delinquency by way of an affidavit attached to the complaint.

R.C. 323.65

The “prosecutor” not the auditor makes the averments in a complaint.

R.C. 323.66

Clarifies that the BOR can make its own procedural rules but adds “as long as not irreconcilably inconsistent with rules adopted by the tax commissioner.” Also clarifies that *lis pendens* applies to board of revision tax foreclosures.

R.C. 323.69

Prosecutors typically file tax foreclosures for the county. In smaller counties, special masters can serve as counsel to file cases for the Treasurer. This clarifies that this authority extends to BOR tax foreclosures. Also, current law allows cases to be transferred from BOR to judicial forum if it is determined that a property turns out to be “occupied.” Because this is a question of fact, the amendment sets an evidentiary standard of abandonment as based on a preponderance of evidence presented by the parties.

R.C. 323.691

Current law allows cases to be transferred from the BOR to a judicial forum. This clarifies that the transfer can occur on motion of the prosecutor, taxpayer or Treasurer. The amendment clarifies that the transfer can be made *sua sponte* on the motion of the BOR.

R.C. 323.70

Clarifies that a BOR may subpoena parties utilizing the process in Civil Rule 45.

R.C. 323.71

Minor clerical clarification, no substantive change. Affirms direct transfers of tax foreclosed abandoned properties under 323.71 and 323.78.

R.C. 323.72

Eliminates surplus language that occurs elsewhere in 323.65-323.79.

R.C. 323.73

Clarifies that tax foreclosed property auctions may be noticed as currently provided, or by the new electronic process proposed supra (5721.182). Also, clarifies how the existing enhanced DTAC fee provided by existing law is distributed between the Treasurer (5%), Prosecutor (5%), and Land Bank (10%) DTAC funds in sales or redemptions of abandoned lands. Also, provides that if no one purchases the foreclosed property at sheriff's sale, then the property is ordered to state forfeiture as with all other tax foreclosures with no-bidder.

R.C. 323.74

Repealed. Eliminates surplus language and language that does not apply to tax foreclosure practice.

R.C. 323.75

Clarifies that costs incurred in a foreclosure action are chargeable to and recoverable by the agency advancing such charges.

R.C. 323.76

Removes surplus language referring to redemption which is already provided for in 323.65-323.79.

R.C. 323.77

Clarifies references and priorities between county land reutilization corporations and "municipal" land banks.

R.C. 323.79

Clarifies that motions to vacate proceedings after the time for appeal, may not be substituted for appeal; except in the case of failure of service of process on a party, motions for reconsideration and motions to vacate may not be considered, and must be denied.

R.C. 715.261

Existing law allows municipalities and county land reutilization corporations to place liens on the tax duplicate for nuisance abatement activities they perform. The amendment clarifies when the

lien for the costs of the abatement activity attaches. Further clarifies the practice of how a municipality or county land reutilization corporation forecloses on its nuisance liens.

R.C. 5721.03

Allows publication of the delinquent land list electronically if a Treasurer elects.

R.C. 5721.14

Repeals the unused “tax foreclosure and forfeiture” proceeding enacted in 1988 as part of Amended Substitute House Bill 603. Since the passage of HB 603, the General Assembly has passed more effective tax foreclosure legislation rendering this method obsolete and unused. Repealing this section, and its associated amendments from HB 603, will help clarify Ohio’s existing tax foreclosure law by eliminating redundant, confusing, and unnecessary terminology and practices from existing and utilized tax foreclosure law.

R.C. 5721.18

Allows publication by service to be made electronically.

R.C. 5721.19

Allows appraisals and notice of sale by the Sheriff to be published electronically. Eliminates the possibility of a 3<sup>rd</sup> sale. Promotes predictability and uniformity among the Counties.

R.C. 5721.20

This clarifies that the existing procedure for claiming and distributing unclaimed funds resulting from tax foreclosure sales applies to all tax foreclosure proceedings authorized by existing law. Reduces time an owner must make a claim on unclaimed funds from three to two years. Also corrects an error in existing law so the correct section number (321.263) is provided in a reference to the County Land Bank Fund.

R.C. 5721.25

Clarifies that a taxpayer may enter into a tax payment plan at any time up to a journalized decree of foreclosure.

R.C. 5722.03

Clarifies that costs recovered in a foreclosure action get credited back to the agencies that originally advanced the costs.

R.C. 5722.04

This eliminates surplus language. The recorder fees are exempted in the recorder code sections. This is merely repetitive. Clarifies that all liens for taxes and special assessments are extinguished when property is deemed sold to an electing subdivision at sheriff’s sale.

R.C. 5722.05

Clarifies that the one (1) year incontestability after a tax foreclosure applies to post decree sheriff sales as well as sheriff transfers.

R.C. 5722.06

This eliminates surplus language. It eliminates the general statement that land banks shall plan and analyze future land bank uses. This is all appropriately regulated by city planning departments.

R.C. 5722.07

Provides that a municipal land bank may transfer a non-productive property without appraisal of fair market value so long as the land is placed back into productive use.

R.C. 5722.08

Allows electing subdivisions (land banks) to retain any proceeds from the sale of non-productive lands. In most cases, land banks have held and maintained the lots for years, cut the lawn, removed illegal dumping, etc. As such, the potential to recover these costs is nominal. Therefore, recovery after a sale of a land bank property should remain with the municipality so long as the land continues to be used for acceptable land bank purposes.

R.C. 5722.09

Established in the 1970s, this eliminates aspirational language that all of the taxing districts touching upon a land bank property should meet and discuss vacancy. This is all outdated and is not employed throughout Ohio. Planning departments perform this function.

R.C. 5722.10

Clarifies that the existing law which allows deeds-in-lieu of tax foreclosure applies whether or not there are subordinate (non-tax) liens on a property. In all cases, subordinate liens continue to follow the property until lawfully extinguished or paid. Clarifies that all tax liens are extinguished upon transfer to an electing subdivision, just as if the property was transferred as a result of an actual tax foreclosure.

R.C. 5722.11

This clarifies and codifies existing law and practice on how/when the tax exemption enjoyed by a land bank under Chapter 5722 commences and terminates.

R.C. 5722.13

This section should be repealed. It arbitrarily states that properties held in a municipal land bank must be offered for sale at fair market value after fifteen (15) years at its fair market value. Municipalities are eager to sell properties if they are transferred to productive uses or can generate income. The reason properties are not sold is because the sale itself often costs more than the property sells for; or as a planning matter, the cities do not wish to transfer a property in a germinating land assemblage area.

R.C. 5722.15

This section provides that when a land bank acquires non-productive land, the county auditor removes all taxes, assessments and charges due and payable up to that point. The portion of the statute which also says that an auditor must always report to the over-laying taxing districts how much taxes would have been assessed on the property, and in their proportion is a burdensome requirement on auditors and is unnecessary in that previous amendment eliminates the need to reimburse all of the taxing districts when a municipality sells a vacant lot. Moreover, this calculation ultimately occurs at settlement by the county budget commission.

R.C. 5722.21

Existing law already provides that a county land reutilization corporation, having passed an authorizing resolution, may acquire tax delinquent land for the public purpose of redeveloping the property or otherwise rendering it suitable for productive, tax-paying use. Upon such an acquisition,

all taxes are extinguished by operation of law. This amendment provides that a county, municipality, or township may use this procedure as well.

R.C. 5723.01

Clarifies that a property may be forfeited to the state after two (2) sheriff sales in the case of occupied lands, and after one (1) sheriff sale in the case of abandoned lands. Eliminates process by which a property, instead of forfeiting to the State, may forfeit to a county land reutilization corporation or political subdivisions subject to tax and other liens.

R.C. 5723.04

Balances the interests of auditors in large counties versus auditors in small counties. Retains the requirement that an auditor conduct a “sale” at least annually of forfeited lands; but does not require all properties to be included in the sale. Where a municipal or county land reutilization corporation requests an auditor to exclude a property from a forfeiture sale, it allows the auditor to do that, but with a limitation that requires exposure to sale at least once every three (3) years.

R.C. 5723.05

Clarifies that advertisements by the county auditor for sales of forfeited land may occur electronically under previous amendment.

R.C. 5723.06

Clarifies that a forfeiture sale by an auditor need not be limited to the “court house” but may be at a location the county deems appropriate and efficient for the county auditor. Provides that a successful bidder at a forfeited land sale must pay any balance owed on the sale price within 30 days of the sale or the sale shall be automatically voided and any deposit will be forfeited to the auditor.

R.C. 5723.10

This section prescribes the form of notice of sale. The Amendment eliminates the reference to sales at the “court house.”

R.C. 5723.13

This clarifies that this section providing a one (1) year statute of limitations for title claims on forfeited land sold pursuant to Chapter 5723 also applies to properties “transferred” under existing law in that Chapter.

R.C. 5723.18

This clarifies how the existing enhanced DTAC fee provided by existing law is distributed between the Treasurer, Prosecutor, and county land reutilization corporation DTAC funds in sales or redemptions of forfeited lands. Provides that after paying the costs of a foreclosure and forfeiture proceeding, proceeds equal to ten percent (10%) of delinquency are split equally between treasurer and prosecutor, and then proceeds equal to ten percent (10%) of delinquency goes to county land reutilization fund.

R.C. 5723.20

This is a new section which extends to county officers and employees, immunity from civil suit and damages in connection with property forfeited to the state as a result of tax foreclosure and forfeiture.