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H.B. 55*
136th General Assembly

Bill Analysis

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Version: As Reported by House Judiciary

Primary Sponsor: Rep. Stewart

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SUMMARY

- Allows a court, under certain specified circumstances, to escalate the lien priority of costs, expenses, and fees incurred by the executor or administrator of an estate, when apportioning the proceeds of a sale of real property owned by the estate.
- Limits the amount of estate administrative fees that can be escalated in terms of lien priority to \$5,000.

DETAILED ANALYSIS

Sale of real property owned by an estate

The bill allows a court, under certain specified circumstances, to escalate the lien priority of costs, expenses, and fees incurred by the executor or administrator of an estate, when apportioning the proceeds of a sale of real property owned by the estate. Current law requires such proceeds to be applied in the following order:

1. To pay any costs attributed to the sale, including “reasonable” fees fixed by the probate court for services provided by attorneys and the administrator or executor in connection with the sale;
2. All of the following, in order of lien priority:
 - a. Taxes, interest, penalties, and assessments due against the real property;
 - b. Mortgages secured by the real property;

* This analysis was prepared before the report of the House Judiciary Committee appeared in the House Journal. Note that the legislative history may be incomplete.

- c. Judgments against the deceased person or the estate, including judgments that operate as a lien on the real property and judgments that operate as a lien on the estate.
3. Legacies (i.e., gifts) with which the real property of the deceased was charged;
 4. Debts owed by the estate, including those incurred in administering the estate.

Under the bill, where the assets of an estate are insufficient to pay the costs, expenses, or fees incurred by the executor or administrator, a court may allow some or all of those costs, expenses, and fees to move up in the order, right behind the costs apportioned to the sale. This includes fees for services performed by attorneys employed by the executor or administrator in relation to the entire estate. The bill specifies that the escalation in lien priority is allowed even when the property is purchased by a lien holder. However, liens that attached to the real property before the bill's effective date must still be extinguished before the costs, expenses, and fees of the executor or administrator. The bill limits the amount of estate administrative fees that can be escalated to \$5,000.¹

HISTORY

Action	Date
Introduced	02-04-25
Reported, H. Judiciary	---

ANHB0055RH-136/ar

¹ R.C. 2127.38 and 5721.10.