Ohio Legislative Service Commission

Philip A. Cummins

Fiscal Note & Local Impact Statement

Bill: H.B. 418 of the 131st G.A.
LSC 131 1778-1)

Date: May 16, 2016

Status: In House Financial Institutions, Housing, and Urban Development

Sponsor: Rep. Barnes

Local Impact Statement Procedure Required: Yes

Contents: Limits foreclosures and prohibits sale of delinquent property tax certificates for parcels owned and occupied as homesteads for at least 20 years by persons age 65 or older

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

- Limiting foreclosure for nonpayment of property taxes and prohibiting the sale of tax certificates for homesteads owned for at least 20 years by persons age 65 or older may exclude up to $180 million per year of delinquent taxes from collection efforts by local authorities, but this estimate is very rough.
- Under the bill, county treasurers could not enforce tax liens against persons in this group for total amounts owed of $5,000 or less. The tax liabilities involved may total up to $70 million of the up to $180 million specified above.
- For larger amounts, county treasurers could not enforce tax liens if property taxes increased for two or more years and a court determines that the person's financial circumstances likely contributed to inability to pay.
- In either case, the lien would remain in place and could be enforced when the prohibitions cease to apply.
- Most properties on which taxes are delinquent appear not to be the subject of tax certificate sales.

Detailed Fiscal Analysis

On a homestead owned for at least 20 years by a person age 65 or older, the bill would (1) prohibit tax foreclosure if delinquent taxes and other charges do not exceed $5,000, (2) require dismissal of foreclosure proceedings for more than $5,000 if the tax bill on the homestead increased for two or more years during which the delinquency occurred and the property owner's finances likely contributed to the delinquency, and (3) prohibit the sale of delinquent property tax certificates. The tax lien would not be extinguished and could be enforced when the parcel ceases to qualify for the limitations in the bill.

Properties with delinquent taxes are concentrated in counties with big cities. In 2014, Cuyahoga County accounted for more than one-third of statewide delinquent property taxes and assessments. Seven predominantly urban counties – Cuyahoga, Franklin, Hamilton, Lucas, Montgomery, Summit, and Trumbull – accounted for more than two-thirds. On the other hand, delinquencies were under $5 million in over half of the state's counties.[1] Property owners delinquent in payment of taxes receive multiple bills and notices from county treasurers about the delinquent taxes, and some taxes delinquent for a period of time may be paid by the owners before additional steps are taken.

Prohibition on tax foreclosure on senior-owned homestead for $5,000 or less

The bill would prohibit the county treasurer from seeking to foreclose on a parcel that meets all of the following criteria: (1) the parcel is owned and occupied as a homestead, (2) the owner-occupant is a person age 65 or older, (3) the owner-occupant has owned the property for at least 20 of the preceding years, and (4) delinquent taxes, assessments, charges, penalties, and interest do not exceed $5,000. These four attributes are evaluated in what follows. An estimated $10.8 billion of taxes were owed on residential real property for 2014. Most of this amount (an estimated 91%) is on owner-occupied property. The amount does not include taxes on buildings with four or more rental units, which are classified as commercial rather than residential real property for Ohio property tax purposes. Based on the foregoing figures, real property taxes on owner-occupied residences may total roughly $9.8 billion per year.

In 2014, in 32% of owner-occupied Ohio housing units, the owner was age 65 and older.[2] These households accounted for a smaller share of property taxes paid than of occupied units, 26% in 2014. Based on this estimate, real property taxes on residences occupied by owners age 65 and older may total roughly $2.6 billion per year.

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[1] These figures are based on a Department of Taxation report on delinquent taxes on all real and public utility tangible personal property.

[2] More precisely, the person identified as the householder in Census Bureau records, or the older of the householder or the householder's spouse if a spouse was present, was age 65 or older.

The share of these taxes owed by persons who have owned their homes for 20 or more years appears to be sizable. U.S. Census Bureau figures indicate that in 2014 about 63% of Ohio home owners age 65 or older had moved into their homes 20 years earlier or more. Some may have moved in and subsequently become owners, but most are assumed here to have owned the property when they moved in. Real property taxes on owner-occupied residences of this group might aggregate roughly $1.5 billion per year.

Delinquent real property and public utility tangible personal property taxes totaled about $1.65 billion for tax year 2014, according to a Department of Taxation report dated June 30, 2015. The Department's figures do not break out delinquencies on residential property from those on other types of property. Net taxes charged on all real and public utility property were $16.5 billion, implying a delinquency rate of 10%. Total delinquent special assessments were about an additional $0.32 billion, about 2% of net taxes charged. These are aggregate delinquency rates, and the rates for the subset of properties that are the subject of the bill could be considerably lower or higher.

If delinquency rates on taxes owed average 10% on the roughly $1.5 billion per year of real property taxes estimated to be owed on owner-occupied residences by persons age 65 or older who have lived in these homes for 20 or more years, then roughly $150 million per year of taxes would be delinquent. If delinquency rates on special assessments owed average 2%, then roughly an additional $30 million per year of special assessments would be delinquent.

The portion of these estimated $180 million per year of delinquent taxes that would not exceed $5,000 per homeowner could be substantial. An indication of this is given by the Franklin County Treasurer's sale of tax lien certificates in November 2015. Most of the liens sold were on residential real property. Of the residential property liens, including taxes as well as other charges, 64% of the parcels accounting for 39% of the total dollar value had amounts owed of $5,000 or less per parcel. Based on these figures, an estimated $70 million ($180 million times 39%) of delinquent taxes would be excluded from the foreclosure process by this provision of the bill.

In view of the estimation process described above, this estimate should be viewed as very rough.

Dismissal of foreclosure against senior-owned homestead if property owner's finances contributed

For owner-occupied properties owned by persons age 65 or older for 20 or more years, on which delinquent taxes, assessments, charges, penalties, and interest exceed $5,000, the bill does not preclude the county treasurer from seeking to enforce the lien. However, the bill allows the property owner to present to the court evidence of financial hardship. If taxes owed on the property increased for two or more years while remaining unpaid, the bill directs the court to dismiss the foreclosure proceeding if it decides "that the property owner's financial circumstances likely contributed to the owner's inability to pay . . . ." An unknown but plausibly sizable portion of the estimated roughly $110 million ($180 million minus $70 million) of delinquent taxes owed by these owner-occupants might be judged not to be subject to foreclosure as a result of this provision of the bill.

Prohibition on sale of delinquent property tax certificates for homestead owned by a senior for 20 years or more

The bill would prohibit the county treasurer from selecting for transfer by sale of tax certificates the lien against a parcel on which payment of taxes is delinquent that is owned and occupied as a homestead for at least 20 years by a person age 65 or older. Tax certificates are sold to private buyers as a way for units of local government to recover unpaid property taxes, accelerating receipt of the unpaid taxes by units of local government and transferring to the buyer the risk that the full amount of taxes owed may not be recovered in subsequent payments from property owners or in foreclosure.

The certificates are sold for the amount of delinquent taxes owed plus a fee charged by the county treasurer to cover the treasurer's reasonable costs of administering the tax certificate sale. As an inducement to purchase the tax certificates, buyers are owed (by the property owner) the larger of 6% of money invested in the certificates or interest at a rate of up to 18% per year.

Most parcels in a county on which property taxes are delinquent are subject to selection by the county treasurer to be included in a sale of tax certificates. However, the liens on most properties on which taxes are delinquent appear not to be sold through tax certificate sales. Precluding sale of liens through tax certificates on properties owned long term by seniors would foreclose this means of seeking to recover the estimated roughly $180 million per year of delinquent taxes owed by persons in this group. Because many properties on which taxes are delinquent do not appear to become the subject of tax certificate sales, the amount should be viewed as approximating an upper limit to the reduction in sales of these certificates.

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