



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 463

131st General Assembly
(As Passed by the House)

Reps. Dever, Becker, Boccieri, Hambley, Perales, Sprague, Terhar, Leland, Anielski, Antonio, Arndt, Baker, Blessing, Brown, Buchy, Burkley, Celebrezze, Conditt, Craig, Dovilla, Duffey, Fedor, Ginter, Green, Grossman, Henne, Lepore-Hagan, Manning, McClain, McColley, M. O'Brien, S. O'Brien, Patterson, Reece, Reineke, Retherford, Ryan, Scherer, Schuring, Sheehy, Slaby, Slesnick, K. Smith, Strahorn, Sweeney, Young

BILL SUMMARY

Sub. H.B. 463 passed the House on May 11, 2016. Its provisions were almost entirely incorporated into Sub. H.B. 390, which was enacted on June 28, 2016. A summary of those provisions can be found on pages 14 to 36 of the Sub. H.B. 390 Final Analysis, which can be found at <https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA131-HB-390>. Sub. H.B. 463, As Passed by the House, would have done the following:

Vacant and abandoned properties – expedited foreclosure actions

- Allows a mortgagee to bring an expedited foreclosure action against vacant and abandoned residential property.
- Enables a court to deem foreclosed residential properties vacant and abandoned when the mortgagor is in monetary default on the mortgage and certain conditions apply.
- Provides judicial and sale procedures for vacant and abandoned property.
- Authorizes a mortgagee of a residential property that has been found to be vacant and abandoned to enter and secure the property.
- Authorizes a mortgagee who has not yet filed a mortgage foreclosure action to enter and secure the residential property only if the mortgage contract or other documents provide for the entry.

- Extinguishes an owner's right to redemption of a mortgage on residential property found to be vacant and abandoned upon the confirmation of the sale of the property.

Modifications to judicial sale procedures

Official public sheriff sale website

- Creates the official public sheriff sale website to sell property subject to foreclosure sales.
- Permits judicial sales of residential property to be conducted through the website for the first five years the website is fully operational, after this period sales on the website are required.
- Permits judicial sales of commercial property to be conducted through the website.
- Requires the Department of Administrative Services to solicit competitive sealed proposals for the creation, operation, and maintenance of the website.
- Requires the website to meet specified minimum standards.
- Requires the website to be integrated with an auction management system.
- Establishes the standards for determining the license fee for the website.
- Establishes registration and bidding procedures for sales conducted through the website.
- Establishes the procedures for the sheriff or private selling officer to postpone, cancel, and void sales on the website.
- Permits counties to enter into shared services agreements relating to judicial sales on the website.
- Adds to the definition of "county expenses" to include online credit card payments made through the website.

Private selling officer

- Authorizes a private selling officer to conduct foreclosure sales and establishes procedures relating to those sales.
- Permits a judgement creditor in a foreclosure action to file a motion with the court requesting a specified private selling officer to sell the real property.



- Permits a private selling officer to:
 - Market the real property subject to the foreclosure sale;
 - Execute a deed of conveyance of the real property sold at the foreclosure sale;
 - Record the deed conveying title to the real property sold at the foreclosure sale.
- Requires the private selling officer that conducts a sale to file a report with the court that issued the sale and to hire a title insurance agent or title insurance company to perform title, escrow, and closing services.
- Establishes a statutory form that may be used as the private selling officer's deed.

Other modifications to judicial sale procedures

- Establishes remote bidding procedures for physical location sales and website sales.
- Establishes new procedures for appraisal of property.
- Increases the penalty fee from 50¢ to \$50 for a freeholder who fails appraisal duties.
- Establishes new procedures for judicial sales of residential properties subsequent to the first sale attempt.
- Requires the purchaser of a property at a judicial sale, other than a purchaser who is the judgment creditor, to deposit a specified amount with the sheriff or private selling officer at the time of the sale.
- Permits a court, upon motion, to return a purchaser's deposit, less the costs of a subsequent sale, when a person fails to timely pay the balance due on the purchase price of a property sold at judicial sale.
- Authorizes, rather than requires, a county treasurer to estimate the tax-related charges to be discharged out of the proceeds of a court-ordered sale, a sale as a result of a partition action, or a sale by an executor, guardian, or trustee.
- Authorizes the plaintiff to an action resulting in such a sale to request that overestimated taxes discharged from sale proceeds be used to pay off unsatisfied liens or be paid to the court for distribution.
- Permits a plaintiff purchasing the property in such a sale to choose to have the current year's taxes, to the extent not yet determined, to be either paid from the sale proceeds or made payable at the next semiannual tax payment date.



- Requires the sheriff or private selling officer to record the deed of a property sold at a judicial sale within a certain time period and provides that if the deed is not recorded within that time period, the purchaser may file a motion with the court to proceed with the transfer of title.
- Grants the judgment creditor and the first lienholder a right of redemption under certain circumstances.
- Requires additional information to be included in the notice and advertisement of judicial sales.
- Requires additional information for purchaser's identifying information and requires an entity that purchases information at a foreclosure sale to submit identifying information.
- Prohibits a judgment creditor from making a misleading statement to a mortgagor that would discourage participation in loss mitigation or foreclosure resolution (not incorporated into Sub. H.B. 390).
- Permits, under certain circumstances, a county prosecutor to proceed with a foreclosure sale of residential real property.

Owner's physical harm to property

- Provides that an owner who knowingly and with the purpose to diminish the value or enjoyment of the residential property moves, defaces, damages, or otherwise improperly tampers with the person's own residential property is guilty of criminal mischief if the property is the subject of a foreclosure action. (Sub. H.B. 463 starts this prohibition with the filing of a judgment entry in the action, while Sub. H.B. 390 starts this prohibition with the filing of the action.)

Attorney General reports and database

- Requires all officers appointed or authorized by a court to conduct a foreclosure sale of certain residential properties to submit quarterly reports to the Attorney General.
- Requires the Attorney General to establish and maintain a public database containing information submitted in the reports.

Responsibilities of the clerk of the court of common pleas

- Prohibits a clerk from restricting, prohibiting, or modifying the rights of parties seeking service on party defendants.



Enforcement of lost instrument

- Modifies one of the three conditions that must be satisfied for a person to enforce a lost instrument under Ohio Commercial Paper Law.

Tax certificate foreclosure sales

- Permits private selling officers to conduct tax certificate foreclosure sales.
- Establishes sale procedures conducted online.
- Authorizes private selling officers to carry out specified actions in order to sell the foreclosed property and execute a new deed.
- Specifies the amount that is considered reasonable for attorney, private selling officer, and title agent and title insurance company fees charged as costs against property.

Auctioneers

- Requires auctioneers who are not private selling officers who conduct judicial sales to be Ohio residents.

HISTORY

ACTION	DATE
Introduced	02-16-16
Reported, H. Financial Institutions, Housing & Urban Development	04-27-16
Passed House (95-1)	05-11-16

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