



OHIO LEGISLATIVE SERVICE COMMISSION

Synopsis of Senate Committee Amendments*

Sam Benham, Nick Keller, and Carla Napolitano

Sub. H.B. 463

131st General Assembly
(S. Civil Justice)

The Senate committee removed the provisions of Sub. H.B. 463, As Passed by the House; those provision were largely enacted in Sub. H.B. 390. The Senate committee added amendments that do the following:

Real property foreclosures

- Modifies how property taxes are collected out of the sale proceeds when real estate is sold in foreclosure or other court-ordered sale.
- Expressly requires the court to hold an oral hearing in determining whether to proceed in an expedited manner in a foreclosure action.
- Eliminates the requirement that the purchaser pay the recording fee required at a foreclosure sale and instead requires the collection of the sale deposit under existing law.
- Clarifies that excess private selling officer fees may be paid by the buyer of the property.
- Establishes that when both the judgment creditor and the first lienholder seek to redeem the foreclosed property, the first lienholder prevails.
- Modifies the minimum bid requirement for sales initiated by a county prosecutor.
- Requires that if the appraisal requirement is not met, the appraised value of the property should be the most recent appraised value instead of the fair market value.
- Requires that when real property is not sold at the second sale, the minimum bid must be equal to unpaid taxes and court costs.

* This synopsis does not address amendments that may have been adopted on the Senate Floor.

- Prohibits the use of plywood to secure real property that is deemed vacant and abandoned under continuing law.

Escrow transactions

- Modifies laws relative to disbursements made in escrow transactions connected with residential real estate.

Housing Civil Rights laws

- Makes permissive the awarding of actual damages and attorney's fees in housing discrimination cases before the Civil Rights Commission.
- Permits the Civil Rights Commission as part of the penalty for a housing discrimination case to require remediation in the form of a class, seminar, or any other type approved by the Commission.
- Allows the Civil Rights Commission, to vindicate the public interest, to assess a civil penalty against a person found to have engaged in unlawful housing discrimination, instead of allowing the Civil Rights Commission to award the complainant punitive damages under existing law.
- Allows a person to recover attorney's fees if the Civil Rights Commission finds that the person did not engage in an unlawful discriminatory practice.
- Permits a housing complaint to be amended at any time up to seven days prior to the hearing.
- Makes other technical, nonsubstantive changes.

Changes to Ohio UCC laws on commercial paper and bank deposits and collections

No obligation for double payment

- Generally provides that a note is paid if payment is made by the party obliged to pay to a person formerly entitled to enforce the note only if that party has not received notification that the note has been transferred and payment is to be made to the transferee.
- Specifies that unless a transferee complies with a request to furnish proof that the note has been transferred, a payment to the person formerly entitled to enforce the note discharges the obligation to pay even if the party obliged to pay has received notification of the transfer.

- Generally provides that a transferee or person acquiring rights to the instrument from a transferee is deemed to have notice of any payment under the preceding dot points after the date the note is transferred to the transferee but before the party obliged to pay received notification of the transfer.

Unsigned, telephonically authorized checks

- Defines "remotely created consumer item," for purposes of the following provisions on commercial paper and bank deposits and collections, as an item drawn on a consumer account that is not created by the payor bank and does not bear a handwritten signature purporting to be the drawer's signature.
- Provides that the following persons warrant, with respect to a remotely created consumer item, that the person on whose account the item is drawn authorized the item's issuance in the amount for which it is drawn:
 - A person who transfers an instrument for consideration, to a transferee and a subsequent transferee;
 - A customer or collecting bank that transfers an item for consideration, to the transferee and any subsequent collecting bank;
 - A person obtaining payment or acceptance, to the drawee making the payment or acceptance of an unaccepted draft presented to the drawee.

Defenses and claims in recoupment

- Makes a claim and defense available if, in a "consumer transaction," any law other than the commercial paper law requires an instrument to include a statement that a holder's rights are subject to a claim or defense that the issuer could assert against the original payee and the instrument does not contain such statement.

Electronic records and signatures

- Changes the reference in various provisions of the UCC laws on commercial paper and bank deposits and collections from "writing" or "written" to "record," defined as information that is inscribed on a tangible medium or is stored in an electronic or other medium and is retrievable in perceivable form.

Modernized suretyship and guaranty rules

- Outright repeals current provisions on the discharge of indorsers and accommodation parties and replaces them with specific rules regarding the effect of

the following on the discharge of the obligations of a principal obligor or secondary obligor:

- The release of the obligation of a principal obligor by a person entitled to enforce an instrument and another party to the instrument is a secondary obligor with respect to the principal obligor's obligation.
 - The extension of the time at which payments are due on the instrument granted by a person entitled to enforce the instrument to a principal obligor and another party to the instrument is a secondary obligor with respect to the principal obligor's obligation.
 - Any other modification of a principal obligor's obligation agreed to by a person entitled to enforce the instrument and another party to the instrument is a secondary obligor with respect to the principal obligor's obligation.
- Provides that generally a secondary obligor's obligation is not discharged unless the person entitled to enforce the instrument knows that the person is a secondary obligor or has notice under continuing law that the instrument was signed for accommodation.
 - Generally provides that a secondary obligor asserting a discharge has the burden of persuasion both with respect to the occurrence of the acts alleged to harm the secondary obligor and loss or prejudice caused by those acts.
 - Provides that a signer of an instrument as an accommodation party is obliged to pay the amount due on the instrument to the person entitled to enforce it in the same circumstances as the accommodated party is obliged without prior resort to the accommodated party by the person entitled to enforce the instrument.

Property tax exemptions

- Extends the maximum term of a Community Reinvestment Area (CRA) tax exemption for remodeled property.
- Changes the basis for determining the tax-exempt value of remodeled structures for property in a CRA.
- Establishes a definite starting point and method for determining the tax-exempt value of contaminated ("brownfield") property.

Coverage of autism services and insurance mandates

- Requires health plan issuers to provide coverage for autism spectrum disorder.
- Prescribes minimum coverage requirements for autism spectrum disorder.
- Allows a health plan issuer to review an autism spectrum disorder treatment plan on an annual basis.
- Allows a health plan issuer to review an autism spectrum disorder treatment plan more than once a year if the additional reviews are agreed to by the overseeing physician.
- Requires the Superintendent of Insurance to conduct an actuarial study on the costs of health care mandates under Ohio law that apply to non-ERISA individual and group health insurance plans.
- States the intent of the General Assembly to implement a two-year moratorium on new health care mandates and to develop potential tax credits that offset additional employer costs associated with health care mandates.

Child Abuse and Child Neglect Regional Prevention Council members

- Provides that Child Abuse and Child Neglect Prevention Regional Council members are to be reimbursed for expenses incurred in the performance of official duties.
- Prohibits members from participating in Council matters that may pose a conflict of interest.

Local initiative petitions

- Requires a board of elections or the Secretary of State to invalidate a local initiative petition if the board or the Secretary determines that the petition or any portion of it does not fall within the scope of the local government's constitutional authority to enact ordinances or does not satisfy the statutory prerequisites to place the issue on the ballot.
- Changes the deadline to file a county charter petition with the board of county commissioners to 115 days, instead of 110 days, before the day of the general election at which the proposal is to appear on the ballot.

Recall of municipal officials

- Specifies that a municipal recall petition is not valid after 90 days from the date of the first signature.

- Requires a recall election to be held at the next primary or general election occurring more than 90 days from the date the petition is certified as sufficient.

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