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OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 186
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Blessing and Ingram

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SUMMARY

- Requires all delinquent and current property taxes on real property to be paid before the property is sold or subdivided.
- Prohibits the transfer of property sold at a tax foreclosure sale unless the purchaser supplies an affidavit stating that the purchaser or certain related parties do not own tax delinquent property in the state or that such delinquency is justified or erroneous.

DETAILED ANALYSIS

The bill requires delinquent and current property taxes to be paid before a parcel of real property is sold or subdivided i.e., split into multiple lots with ownership of the property maintained. It also requires purchasers at tax foreclosure sales to either personally, or through an authorized representative, provide an affidavit to the county sheriff or other selling officer averring that the purchaser, with certain exceptions, does not directly or indirectly own certain tax delinquent property, and is not substantially owned by a person who does.

Property tax payment upon sale or subdivision

Under the bill, upon the transfer or subdivision of property, the grantor, i.e., the seller, or the owner in the case of a subdivision, must pay to the county auditor the estimated current taxes on the property for the year, along with all delinquent taxes on the property. To calculate the current taxes that must be remitted, the seller or owner must apply to the county auditor for an estimate of all property taxes that are a lien on the property but that have not, at that time, been determined, assessed, and levied. An estimate is needed because, in Ohio, property taxes become a lien on property on January 1, but are not determined until later in the year, nor due before the following December or January. Once the estimated current taxes are paid for the year, they are considered to be the property's tax liability for the year.

This new requirement does not apply to property if the state, or any political subdivision of the state, is the property's buyer, seller, or owner. This requirement applies to any transfers or subdivisions occurring on or after the bill's 90-day effective date.¹

Tax foreclosure sales

Under continuing law, after real property accrues delinquent taxes, it may be foreclosed upon pursuant to one of several tax foreclosure proceedings. After the property is foreclosed, it may be sold by the county sheriff or another authorized selling officer, usually at an auction, to cover the amount of delinquent taxes. The bill prohibits the selling officer from transferring the property to the purchaser unless the purchaser or an authorized representative provides an affidavit relating to the purchaser's ownership of tax delinquent property or such interests held by others who also hold interests in the purchaser. The following specific statements of fact must be included in this affidavit:

- Both of the following, if the purchaser is not a pass-through entity (PTE), such as a limited liability company or partnership:
 - That the affiant, i.e., the person making the affidavit, has inquired with the county treasurer in each county where the purchaser, or a PTE in which the purchaser directly or indirectly owns or holds at least a 10% interest, owns property and was informed that neither the purchaser nor any such PTE owns property with delinquent taxes in those counties.
 - That, to the best of the affiant's knowledge, neither the purchaser nor such a PTE own property in Ohio with delinquent taxes.
- Both of the following, if the purchaser is a PTE:
 - That the affiant has made the same inquiry as required for non-PTE purchasers and been informed that neither the purchaser, nor a person that directly or indirectly owns a 10% or greater interest in the purchaser, owns property with delinquent taxes in the applicable counties.
 - That, to the best of the affiant's knowledge, neither the purchaser nor a person who directly or indirectly owns or holds a 10% or greater interest in the purchaser own property in Ohio with delinquent taxes.

If a purchaser, or an authorized representative, is informed by a county treasurer that delinquent taxes are owed, the affiant may alternatively state one of the following:

- That the delinquency was misassigned to the purchaser due to a name change, pending property transfer, or error in the county recorder's office. If an error by the county

¹ R.C. 319.204, with conforming changes in R.C. 317.22, 319.20, and 5713.18; Section 3; R.C. 323.11 and 323.12, not in the bill.

recorder is stated, an affidavit or other documentation from the recorder supporting the statement must be included with the affidavit.

- That the property against which delinquent taxes are assessed is the subject of litigation or other proceedings that challenge the property's ownership and which may absolve the taxpayer of the delinquency.
- There are other circumstances the affiant believes demonstrate that the delinquency does not result from the intentional action or inaction on the part of the purchaser. If the affiant claims such circumstances, supporting documentation must be included with the affidavit.

If an affiant claims one of the alternative circumstances allowed when a delinquency is present, the officer in charge of the sale must review the affidavit and any supporting documentation. The officer may then approve or deny the transfer based on the validity of the circumstances and documentation. Delinquencies that are being paid in installments pursuant to a delinquent tax contract with the county treasurer are not considered delinquent taxes for purposes of the affidavit.

A knowingly made false statement on the affidavit is falsification, which in this case is a first degree misdemeanor.²

An affidavit is only required for property purchased at a foreclosure sale – it is not required if a person purchases a tax certificate authorizing the person to enforce the state's lien for delinquent taxes. So a person that owns tax-delinquent property may still purchase tax certificates.

HISTORY

Action	Date
Introduced	11-14-23

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² R.C. 323.28(G), 323.74(H), 5721.19(J), and 5723.06(E).