

As Introduced

129th General Assembly
Regular Session
2011-2012

H. B. No. 610

Representative Stautberg

—

A BILL

To amend sections 2333.22, 2715.21, 2735.02, and 1
2735.04 of the Revised Code to add to and clarify 2
the powers of a receiver and to provide a 3
procedure for a receiver's sale of real property. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2333.22, 2715.21, 2735.02, and 5
2735.04 of the Revised Code be amended to read as follows: 6

Sec. 2333.22. (A) In proceedings under sections 2333.09 to 7
2333.27, ~~inclusive,~~ of the Revised Code, the judge by order may 8
appoint the sheriff of the proper county, or other suitable 9
person, a receiver of the property of the judgment debtor. ~~Such~~ 10

(B) The judge also who appointed the receiver under division 11
(A) of this section, by order, may forbid a transfer, or other 12
disposition of or interference with, the property of the judgment 13
debtor not exempt by law. 14

(C) Under the control of the judge who appointed a receiver 15
under division (A) of this section and except as ordered by the 16
judge under division (B) of this section, the receiver may do any 17
of the acts specified in section 2735.04 of the Revised Code. 18

Sec. 2715.21. (A) The receiver appointed under section 19

2715.20 of the Revised Code shall take possession of all notes, 20
due bills, books of account, accounts, and other evidences of 21
debt, that have been taken by the levying officer as the property 22
of the defendant in attachment, and proceed to settle and collect 23
them. For that purpose, the receiver may commence and maintain 24
actions in ~~his~~ the receiver's own name, as receiver, but no right 25
of defense ~~therein~~ in the action shall be impaired or affected. 26

(B) Under the control of the court that appointed the 27
receiver under section 2715.20 of the Revised Code, the receiver 28
may do any of the acts specified in section 2735.04 of the Revised 29
Code. 30

Sec. 2735.02. No party, attorney, or person interested in an 31
action shall be appointed receiver ~~therein~~ in the action except by 32
consent of all of the parties to the case and all other persons 33
holding a recorded ownership interest in or financial lien on the 34
property that is subject to the proceeding. No person except a 35
resident of this state shall be appointed or act as receiver of a 36
~~railroad or other~~ corporation within, partnership, limited 37
liability company, or other entity created under the laws of this 38
state. In selecting a receiver, priority consideration shall be 39
afforded to any of the qualified persons nominated by the party 40
seeking the receivership. No nomination of qualified persons for 41
the receivership is binding upon the court. 42

Sec. 2735.04. (A) Under the control of the court ~~which~~ that 43
appointed ~~him,~~ the receiver as provided in section 2735.01 of the 44
Revised Code, a the receiver may ~~bring~~ do any of the following: 45

(1) ~~Bring~~ and defend actions in ~~his~~ the receiver's own name 46
as receiver, ~~take;~~ 47

(2) ~~Take~~ and keep possession of real or personal property, ~~48
receive;~~ 49

(3) Receive rents, and collect, compound for, and compromise 50
demands, make; 51

(4) Establish or maintain accounts with any public utility in 52
the receiver's name as receiver under the rules that may be 53
adopted by the public utilities commission; 54

(5) Subject to division (B) of this section, enter into 55
contracts, including, but not limited to contracts of sale, lease, 56
or construction and contracts for the completion of construction 57
work; 58

(6) Make transfers, and generally of real or personal 59
property free and clear of liens or encumbrances after appropriate 60
notice to persons who have a recorded ownership or financial 61
interest in the property to be transferred, including, but not 62
limited to, lienholders; 63

(7) Generally do such any acts respecting the real or 64
personal property as that the court authorizes. 65

(B) Any funds that are expended by the receiver in entering 66
into or performing contracts under division (A)(5) of this 67
section, including those for the completion of construction work 68
authorized by the court, shall be taxed as court costs or 69
otherwise treated as a priority administrative expense of the 70
proceeding. The court may from time to time require an additional 71
deposit to cover that administrative expense by the party that 72
sought the receivership or by all parties likely to be directly 73
benefited by the construction work. 74

(C) If a receiver transfers real or personal property under 75
division (A)(6) of this section, the liens or other interests of 76
persons in the property shall be transferred in the same order of 77
priority to the proceeds received from the transfer of it. 78

(D)(1) In the exercise of a receiver's authority under 79
division (A)(6) of this section and in accordance with the court's 80

order to sell or otherwise dispose of real property, the receiver 81
may sell real property at a public or private sale, enter into a 82
long- or short-term lease, or make other reasonable arrangements 83
as approved by the court. At the conclusion of the sale of real 84
property by a receiver and on careful examination of the 85
proceedings of the sale, if the court finds that the sale was made 86
in conformity with its order to sell, it shall, within thirty days 87
of the date of the sale, confirm the sale and direct the clerk of 88
the court to make an entry on the journal that the court is 89
satisfied of the legality of the sale and that the receiver make 90
to the purchaser a deed for the real property sold. Nothing in 91
this division prevents the court from staying the confirmation of 92
the sale to permit the property owner time to redeem the property 93
or for any other reason that the court determines is equitable. In 94
those instances, the sale shall be confirmed within thirty days 95
after the termination of any stay of confirmation. 96

(2) The receiver who made the sale under division (D)(1) of 97
this section shall require the purchaser to pay within thirty days 98
of the confirmation of the sale the balance, if any, due on the 99
purchase price of the real property sold. 100

(3) At any time before the confirmation of the sale under 101
division (D)(1) of this section, the property owner may redeem it 102
from sale by depositing with the clerk of the court the amount for 103
which the property was sold, with all costs, including poundage, 104
and interest at a reasonable rate per annum set by the court on 105
the purchase money from the date of the sale to the time of the 106
deposit, except that if a judgment creditor is the purchaser, the 107
interest is at that rate on the excess above the judgment 108
creditor's claim. Upon the redemption of the property, the court 109
shall make an order setting aside the sale, apply the deposit to 110
the amount of the purchase price of the property and costs, and 111
award the applicable interest to the purchaser. The clerk of the 112

court shall transmit to the receiver the purchase money paid for 113
the property and the interest awarded under this division. 114

(E) As used in this section: 115

(1) "Public utility" means any retail supplier of electric, 116
gas, water, or related services or of sewage disposal service, 117
including, but not limited to, an electric light company, gas 118
company, natural gas company, water-works company, heating or 119
cooling company, sewage disposal system company, municipal 120
corporation, cooperative, provider of competitive retail electric 121
service, or provider of competitive retail natural gas service. 122

(2) "Electric light company," "gas company," "natural gas 123
company," "water-works company," "heating or cooling company," and 124
"sewage disposal system company" have the same meanings as in 125
section 4905.03 of the Revised Code. 126

(3) "Cooperative" means an entity that is owned and operated 127
exclusively by and solely for its customers to provide electric, 128
gas, water, or sewage disposal service and includes an electric 129
cooperative as defined in section 4928.01 of the Revised Code. 130

(4) "Competitive retail electric service" has the same 131
meaning as in section 4928.01 of the Revised Code. 132

(5) "Competitive retail natural gas service" has the same 133
meaning as in section 4929.01 of the Revised Code. 134

Section 2. That existing sections 2333.22, 2715.21, 2735.02, 135
and 2735.04 of the Revised Code are hereby repealed. 136