



Sub. S.B. 353*

127th General Assembly

(As Reported by S. State & Local Government & Veterans Affairs)

Sens. Spada, Harris, Mason, D. Miller, Roberts, Smith, Seitz

BILL SUMMARY

Organization and operation

- Authorizes a county with a population exceeding 1.2 million to form, within one year of the bill's effective date, a county land reutilization corporation (CLRC), a nonprofit corporation, for the purposes of promoting development and managing and facilitating the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property.
- The board of directors of a CLRC is to be composed of at least five members, including the county treasurer, at least two of the members of the board of county commissioners, and two members elected by municipal chief executives.
- Exempts proprietary and financial information in the possession of a CLRC from the public records law.
- Exempts CLRCs and other community improvement corporations from competitive bidding procedures.

CLRC powers

- Grants CLRC powers and expands existing economic development corporation powers to:

* This analysis was prepared before the report of the Senate State and Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Borrow money through lines of credit or any other financial instrument or security;
- Issue bonds for the purpose of constructing public infrastructure improvements;
- Make loans;
- Purchase, receive, transfer, hold, manage, lease, or otherwise acquire or dispose of real or personal property;
- Enter contracts with third parties including the federal government, state or political subdivisions, or any other entity;
- Acquire the good will, business, rights, real and personal property, and other assets or interest of another person or entity;
- Acquire or manage improved or unimproved and underutilized real estate for the purpose of constructing industrial plants, business establishments, or housing to increase utilization of real estate;
- Apply for grants;
- Engage in code enforcement and nuisance abatement;
- Charge fees for services performed;
- Employ and provide compensation for an executive director who will manage the corporation and employ others for the benefit of the corporation;
- Purchase delinquent property tax certificates;
- Receive assignments of mortgages;
- Do everything "necessary or convenient to carry out" the corporation's purposes.

Relationship with local governments

- Allows a CLRC to act as the agent of a municipal corporation to remove or repair nuisance buildings, and provides for a lien to attach to the property for such expenses.

- Authorizes a municipal corporation, county, or township to enter an agreement with a CLRC to facilitate the reutilization of tax-foreclosed land under the land reutilization law.
- Grants a priority right of acquisition in property to a municipal corporation or township over the interest acquired by a CLRC, except for land acquired through tax foreclosure procedures under Chapters 323., 5721., or 5723. of the Revised Code. The right is preserved if a subdivision files an instrument indicating the subdivision's intent to acquire property. The right terminates if within 90 days after filing such an instrument the subdivision has not recorded a deed or other instrument evidencing the subdivision's interest in the property.

CLRC sources of funding and asset acquisition

- Authorizes a CLRC to request that a county or a municipal corporation issue bonds and use tax increment financing for the purpose of constructing public infrastructure improvements.
- Authorizes the use of funds raised from a county's share of unvoted "inside" millage to be used for the operation, maintenance, acquisition, and improvement of land and buildings owned or used by a CLRC.
- Authorizes the levy of a countywide, voter-approved property tax to fund a CLRC.
- Authorizes the board of county commissioners to appropriate money and convey property to a CLRC from county general revenue or from revenue raised by a property tax for economic development.
- Authorizes the board of county commissioners, upon the request of the treasurer, to designate an additional 5% of all delinquent property taxes and manufactured and mobile home taxes collected to be deposited in the DTAC fund for use by a CLRC.
- Authorizes the board of county commissioners to pay to a CLRC up to 5% of the proceeds of the sale of tax-foreclosed property.

Property tax collection

- Authorizes the county treasurer to open a line of credit based on current unpaid or delinquent taxes for the purpose of borrowing money from the

county treasury to make advance payment of unpaid taxes and assessments to taxing districts.

- Authorizes counties to issue securities in anticipation of the collection of delinquent taxes and to advance the proceeds to taxing units.
- Exempts real property held by a CLRC from real property taxation and from the four-year recoupment provision for the recovery of tax savings from property exempted from taxation when it is sold or transferred.
- Authorizes a county on whose behalf a CLRC has been formed to collect interest on unpaid property taxes at the rate of 1% per month, rather than annually at the statutory rate (i.e., the federal short-term rate plus 3%).
- Permits the county treasurer with court consent to enter a written agreement with a CLRC for the corporation to exercise all powers granted to the treasurer as receiver ex officio of rents, issues, and income of real property against which there are delinquent taxes, assessments, penalties, interest, and charges.

Foreclosure procedure

- Allows a CLRC to foreclose on abandoned land in the same manner as a tax certificate holder under the nonjudicial tax foreclosure procedure, except the land need not be unoccupied.
- Potentially shortens the time within which an owner or other interested party may redeem tax-foreclosed property by paying the debt, to 45 days after the journalization of the foreclosure judgment.
- Allows a tax-foreclosed parcel to be disposed of by sheriff's sale, or by transfer without sale and without appraisal to a municipal corporation, township, county, or county land reutilization corporation at the end of the alternative redemption period.
- If no community development organization, county land reutilization corporation, municipal corporation, county, or township requests title to a parcel at the end of the alternative redemption period, a court or board of revision may order it to be sold or disposed of under Chapter 323., 5721., or 5723. of the Revised Code.

- Permits a CLRC to retain all proceeds from the sale of tax-foreclosed property acquired by a CLRC rather than the proceeds being disbursed among taxing districts.
- Permits a combined foreclosure and forfeiture action to begin within only one year, instead of two years, after nonresidential property becomes tax-delinquent.
- Permits school districts to acquire tax-foreclosed property subject to the same terms as other subdivisions and CLRCs.

Transfers of property to a CLRC

- Authorizes a CLRC, during its first two years, to acquire tax-delinquent property under the land reutilization law subject to most of the same terms as counties, townships, and municipal corporations.
- Extinguishes the lien for delinquent taxes and costs of tax-delinquent land acquired by a county that creates a CLRC without the prior consent of the affected taxing districts. (Consent is required for other subdivisions acquiring such property.)
- Relieves CLRCs from liability arising from violations related to various pollution control laws.

Tax certificates

- Authorizes a CLRC, during its first two years, to acquire and hold tax certificates (representing a claim on a property tax debt).
- Authorizes a CLRC to transfer a tax certificate to another person without first presenting it to the county treasurer. (No other purchaser or transferee of a tax certificate may do so.)
- Authorizes a county treasurer to pay expenses to a CLRC from the proceeds from property owners paying the debt represented by tax certificates.
- Permits liens represented by tax certificates to be foreclosed, at the option of the certificate holder, under the nonjudicial foreclosure proceedings held by the county board of revision instead of by a court.

- Permits a CLRC holding a tax certificate to initiate foreclosure at any time, including within the first year after acquiring the certificate and more than six years thereafter.
- Permits interest on tax certificates to accrue for more than six years if a CLRC holds the certificate.
- Permits CLRCs that hold tax certificates to contact, at any time, property owners to encourage or demand payment.
- Permits any certificate holder to contact the property owner to encourage or demand payment within one month after purchasing the certificate, rather than one year as under current law.

Forfeited lands

- Permits a CLRC, during its first two years, to acquire forfeited lands for no consideration and free and clear of all taxes, and with all liens subordinate to the tax lien discharged.
- Requires an owner of forfeited lands to claim the excess from the sale of forfeited lands (if lands are sold for more than the taxes and costs of the sale) within one year (instead of the current six years) from the day of the sale. If an owner does not claim the excess, a CLRC may claim it.
- Requires port authorities to adopt a plan for future development, construction, and improvements.

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CONTENT AND OPERATION

County land reutilization corporations

Organization and operation

(R.C. 1724.01, 1724.02, 1724.03, 1724.04, and 1724.07)

The bill authorizes the board of county commissioners of a county having a population exceeding 1.2 million to create a county land reutilization corporation (CLRC), a nonprofit corporation, for the purposes of promoting development and managing and facilitating the reclamation, holding, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property. A CLRC must be created (i.e., its articles of incorporation must be filed by the Secretary of State) within one year after the bill's effective date. (R.C. 1724.04.) CLRCs would be created under continuing law that governs "community improvement corporations." CLRCs would be a kind of community improvement corporation. (R.C. 1724.01.) A CLRC may assist other entities to assemble, clear, and clear the title of property in a coordinated manner and promote economic and housing development in the county or region. The board of directors of a CLRC must be composed of at least five members, including the county treasurer, two of the members of the board of county commissioners, and two members elected by the majority of the chief executives of municipal corporations located mostly in the county. (The election must be conducted according to the regulations governing the CLRC.) (R.C. 1724.03.)

The bill specifically exempts certain CLRC documents from public records law. A CLRC may keep in confidence any financial, proprietary, and any other information submitted by an entity to the CLRC in connection with the location,

relocation, expansion, improvement, or preservation of the entity. (R.C. 1724.11(A).) Regarding the open meetings law, current law requires a unanimous vote by the board of directors of a community improvement corporation who are present at the meeting to close the meeting to consider confidential information. Under the bill, a majority vote is necessary to close a meeting to consider confidential information. (R.C. 1724.11(B).)

The bill also exempts CLRCs and other community improvement corporations from being required to seek competitive bids for purchase, lease, or construction contracts. (R.C. 1724.02(O).)

Powers

(R.C. 1724.02)

The bill grants the following powers to CLRCs:

- Borrow money through lines of credit or any other financial instrument or security;
- Issue bonds for the purpose of constructing public infrastructure improvements;
- Make loans, including revolving loans;
- Purchase, receive, transfer, hold, manage, lease, or otherwise acquire or dispose of personal property or, during its first two years, real property;
- Enter contracts with third parties including the federal government, state or political subdivisions, or any other entity;
- Acquire the goodwill, business, rights, real and personal property, and other assets or interest of another person, and to assume or pay the debts or obligations of that person;
- Acquire, hold, and dispose of securities of any person, so long as tax revenue is not used for that purpose;
- Acquire (during its first two years) and manage improved or unimproved and underutilized real estate for the purpose of constructing industrial plants, business establishments, or housing to increase utilization of real estate;
- Apply for grants;
- Engage in code enforcement and nuisance abatement;

- Charge fees for services performed;
- Employ and provide compensation for an executive director who will manage the corporation and employ others for the benefit of the corporation;
- Purchase delinquent property tax certificates during the corporation's first two years;
- Receive assignments of mortgages (during the corporation's first two years);
- Do everything "necessary or convenient to carry out" the corporation's purpose.

Some of these powers also represent expanded powers of existing economic development corporations under Chapter 1724.

Relationship to local governments

(R.C. 307.806, 307.846, 715.26, 715.261, 5722.01, and 5722.02(D))

Under the bill, a municipal corporation may enter an agreement with a CLRC for the CLRC to act as the municipal corporation's agent for certain building code enforcement actions. Under such an agreement, a CLRC may remove or repair hazardous conditions and nuisance buildings, and attach a lien to the property for the CLRC's expenses. The CLRC's lien is superior to all other liens except any tax lien, and may be enforced by a separate legal action. However, a court or board of revision may subordinate the tax lien to a CLRC's lien, if the county treasurer consents and the court or board of revision finds that doing so promotes the expeditious abatement of public nuisances. (R.C. 715.26 and 715.261.)

The bill authorizes a municipal corporation or township to enter an agreement with a county and a CLRC for the CLRC to facilitate the reutilization of tax-foreclosed land under land reutilization law. (R.C. 5722.02(D).) If a CLRC acquires property located in a municipal corporation or township, the municipal corporation or township is given a priority right of acquisition of the property over the CLRC, except for land acquired by a CLRC through tax foreclosure procedures. The priority right of acquisition is preserved by a municipal corporation or township when the subdivision files an instrument indicating the subdivision's intent to acquire the property within 30 days after the CLRC records the deed. This right terminates if the subdivision does not file a deed or other instrument evidencing the subdivision's interest in the property within 90 days after the initial filing that preserves the right of acquisition.

The county microfilming board and county automatic data processing board are authorized to enter into contracts with a CLRC. (R.C. 307.806 and 307.846.)

Sources of funding and asset acquisition

(R.C. 122.65, 307.01, 307.07, 307.09, 307.10, 307.12, 307.64, 307.698, 307.78, 307.781, 321.261, 1724.02, 1724.02(A)(2), 5705.05, 5705.19(EE) and (UU), 5721.19, and 5722.08)

The bill authorizes a CLRC to be funded from several sources. A CLRC may request that a county or municipal corporation issue bonds and use tax increment financing for public infrastructure improvements. (R.C. 1724.02(A)(2).) The two means by which a CLRC can be funded through property taxes are a countywide voter-approved property tax (R.C. 5705.19(EE) and (UU)), and funds that are raised from a county's share of unvoted "inside" millage to be used for the operation, maintenance, acquisition, and improvement of land and buildings owned or used by a CLRC. (R.C. 5705.05.)

If the board of county commissioners determines that doing so will promote development or housing within the county, the board may lease or convey property to a CLRC, provide offices for a CLRC, appropriate money to a CLRC from the county general revenue fund or from revenue raised by a property tax for economic development. (R.C. 307.01, 307.07, 307.09, 307.10, 307.12, 307.64, 307.698, and 1724.02.) A county also may pay a CLRC up to 5% of the proceeds of the sale of foreclosed property. (R.C. 5721.19.) If a CLRC acquires tax-foreclosed property, the CLRC is permitted to retain the proceeds from the sale of the property rather than disbursing them among taxing districts. (R.C. 5722.08.)

If requested by the county treasurer, the board of county commissioners may designate an additional 5% of all delinquent property and manufactured and mobile home taxes collected to be deposited in the DTAC fund for use by a CLRC. (R.C. 321.261(B).)

CLRC as receiver of delinquent property

(R.C. 323.49)

Continuing law permits a county treasurer to petition the court of common pleas to be appointed the receiver of rent or other income from real property upon which taxes have been delinquent for at least six months. Proceeds are applied to the tax debt.

The bill authorizes a county treasurer who has been appointed as receiver to agree with a CLRC for the CLRC to act as the treasurer's agent for purposes of the receivership and to exercise the treasurer's powers under the receivership.

CLRC property exempted from taxation

(R.C. 5709.12(D) and (F))

The bill exempts property held by a CLRC from property taxation. If, before the CLRC acquires title, the property had been exempted from taxation subject to a recoupment upon transfer by the prior owner (e.g., the prior owner is a private corporation that advances or disseminates scientific knowledge), the recoupment is waived.

CLRC initiation of nonjudicial foreclosures

(R.C. 323.65 to 323.79)

Under current law, a county board of revision may conduct property tax foreclosure proceedings for certain "abandoned lands" as an alternative to the foreclosure proceedings conducted by courts. The county treasurer or the holder of a delinquent tax certificate may initiate foreclosures under this procedure.

The bill authorizes CLRCs to initiate such nonjudicial foreclosures if the CLRC holds a tax certificate. But, unlike other certificate holders and the county treasurer, a CLRC may initiate nonjudicial foreclosures against property "regardless of occupancy." Currently, nonjudicial foreclosures may be initiated only against unoccupied property (see R.C. 323.66(A)).

Land reutilization law and CLRCs

(R.C. Chapter 5722.)

Continuing law authorizes counties, townships, and municipal corporations ("electing subdivisions") to acquire real property that has been offered for sale at a tax sale without having to pay the sale price until the subdivision sells the property. (This authority is known as land reutilization or land banking; it may be exercised if the subdivision's governing board adopts the appropriate resolution or ordinance.) Once an electing subdivision sells property so acquired, it can apply the sale proceeds to cover its costs of acquiring and holding the property, with the balance being applied to reimburse taxing units for the foreclosure costs previously charged to them and to pay the delinquent taxes owed to them.

The bill authorizes a board of county commissioners that is an electing subdivision to designate a CLRC to act on its behalf for land reutilization purposes. (R.C. 5722.01 and 5722.02.) The bill also permits a CLRC to keep all of the sale proceeds "without further reporting or accounting to the taxing districts." (R.C. 5722.08.) In acting on a county's behalf for land reutilization purposes, a CLRC may acquire real property only during its first two years of

existence (i.e., within two years after the Secretary of State's office files the CLRC's articles of incorporation).

Reporting

(Section 3)

The bill requires a CLRC to file two reports to the General Assembly: one by the end of the seventh month of its existence, and one by the end of its thirteenth month of existence. The first report must cover the corporation's activities during its first six months, and the second report must cover its activities during its first year. The report must include information regarding the CLRC's revenue and expenses, real property acquisition and disposition, tax certificate holdings, property against which the CLRC has requested foreclosure, nuisance abatement and property code enforcement activities, number of employees and officers, and officers' compensation.

Property tax collection

Borrowing to advance money to taxing authorities

The bill authorizes two new forms of county borrowing authority. The borrowing is in anticipation of the eventual collection of taxes and assessments that are not paid when due, enabling the county to advance borrowed money to taxing authorities in lieu of the unpaid taxes and assessments. One of the forms of borrowing is the issuance of securities, and the other is a line of credit. There are two separate authorizations for lines of credit.

Whether an advance is made from either form of borrowing is at the treasurer's discretion. If an advance is made, and the taxes and assessments are eventually collected, the taxes and assessments are to be used to repay the line of credit or the securities. Any penalties and interest collected are to be retained by the county treasurer and credited to the county land reutilization fund. (R.C. 321.341.)

Securities. The bill authorizes a board of county commissioners, upon the county treasurer's request, to issue non-general obligation securities to raise money to advance to taxing units. The maximum principal amount is limited to 90% of the difference between (1) the current year unpaid or current year delinquent taxes, and (2) the current year unpaid or current year delinquent taxes that have been collected between the day they were due and the day the securities agreement is executed.¹ The securities must be issued by December 1 of the year the taxes

¹ R.C. 307.781(D) defines "current year unpaid taxes" as the aggregate amount of the first installment of current taxes that remain unpaid after the last day on which the first

became due and must mature by December 31 of the third year thereafter. The securities are secured by a pledge of the collections of the unpaid taxes and assessments; they are not general obligation securities. (R.C. 133.082.)

Lines of credit. The bill authorizes county officials to establish two separate lines of credit to make the advances to taxing authorities. Under one, the county investment advisory committee (composed of the county treasurer and two or three county commissioners) may enter an agreement with the county treasurer permitting the county treasurer to open a line of credit funded by money in the county treasury. The total line of credit at any time is limited to 15% of the county's total average portfolio of inactive money. (Inactive money refers to public funds on deposit with public depositories that are not needed to meet the current needs of the county treasury.) The maximum repayment term of the line of credit is five years, and all draws on a particular line of credit must be repaid within that term (plus interest). A new line of credit may be opened so long as no unreimbursed draws (including accrued interest) remain outstanding from the previous line of credit. (R.C. 135.341(G), 135.35, and 321.36.)

The second source of authority permits a board of county commissioners, upon the county treasurer's request, to enter a line of credit agreement with a public depository for the same purpose of advancing money to taxing units. The county prosecuting attorney must approve the form of the agreement. The total amount of the credit line must not exceed 90% of the current year unpaid taxes or current year delinquent taxes. The maximum term of the line of credit are similar to those for the line of credit authorized for county investment advisory committees. (R.C. 307.781.)

Late payment interest charge

(R.C. 323.121)

Under current law, interest is charged on unpaid and delinquent property taxes on a semiannual basis at a rate determined by the Tax Commissioner (the rate for 2008 is 8% per annum or 0.67% per month; for 2009, 5% per annum or 0.42% per month).

The bill changes the computation of interest in counties where a CLRC has been created. The rate is 1% per month and is charged monthly instead of semiannually; it is independent from the rate set by the Tax Commissioner.

installment of those taxes can be paid without penalty (usually in January), and "current year delinquent taxes" as the aggregate amount of current taxes that remain unpaid after the last day on which the second installment of those taxes can be paid without penalty (June 20).

Limits of liability

(R.C. 5722.22)

Under the bill, a CLRC that acquires property is not subject to liability arising from damage caused by leaking underground storage tanks, air pollution, sewage waste, and hazardous wastes and chemicals under R.C. Chapters 3704., 3734., 3737., 3745., 3746., 3750., 3751., 3752., 6101., and 6111., or for violation of any rule adopted, or order, permit, license, variance, or plan approval issued, under those chapters that was committed by another person in connection with property the CLRC acquires.

Foreclosure procedures

(R.C. 323.25, 323.65, 323.66, 323.67, 323.68, 323.69, 323.70, 323.71, 323.72, 323.73, 323.74, 323.75, 323.76, 323.77, 323.78, 323.79, 5721.03, 5721.06, 5721.18, 5721.19, 5721.20, 5721.37, 5721.38, 5721.39, 5722.03, and 5723.12)

The bill makes several changes to the laws governing the foreclosure of tax liens on real property.

Right of redemption

(R.C. 323.25, 323.65 through 323.79, 5721.18, 5721.19, 5721.20, 5721.37, 5721.38, 5721.39, 5722.03, and 5723.12)

After a foreclosure action is initiated, a property owner can "redeem" the property by paying the debt for which the property is being foreclosed. Under current law, the right to redeem continues until the filing of an entry of confirmation of sale or transfer, which occurs after the property is sold in a tax sale auction.

The bill creates an alternative redemption period that potentially shortens the time within which an owner or other interested party may redeem tax-foreclosed property. The alternative redemption period is the 45-day period after an adjudication of foreclosure is journalized by a court or county board of revision.

Disposition of tax-foreclosed property

(R.C. 323.26, 323.73 through 323.78, 5721.03, and 5721.06)

The bill changes the tax foreclosure procedure to allow a tax-foreclosed parcel to be disposed of by sheriff's sale, or by a transfer without sale or appraisal to a municipal corporation, township, county, or CLRC after the alternative

redemption period has expired. (R.C. 323.78.) If no community development corporation, CLRC, municipal corporation, township, school district, or county requests title to a parcel at the end of the alternative redemption period, a court or board of revision may order the parcel to be sold or disposed of under one of the real property tax foreclosure laws (Chapter 323., 5721., or 5723.). (R.C. 323.28 and 323.78.)

For combined foreclosure and forfeiture actions, the bill decreases the time that must elapse, from two years to one year, before such an action may commence after nonresidential property becomes tax-delinquent (R.C. 5721.03 and 5721.06).

Under the nonjudicial tax foreclosure sections of the bill, school districts are permitted to acquire tax-foreclosed property subject to the same terms as counties, townships, municipal corporations, and community development organizations. The bill specifies that a CLRC is a community development organization for this purpose, thus enabling such foreclosed property to be acquired by a CLRC, but the bill limits a CLRC's authority to so acquire property to the CLRC's first two years. Current law permits such subdivisions and organizations to acquire property foreclosed under the nonjudicial process but not sold at the ensuing tax sale auction. To acquire such property, a subdivision or organization must agree to make basic exterior improvements and remove debris. (R.C. 323.73 through 323.78.)

Acquisition of tax-delinquent land without tax lien

(R.C. 5722.21)

Current law permits counties, townships, and municipal corporations to acquire tax-delinquent property for redevelopment purposes and obtain title clear of the tax lien. Any lawful manner of acquisition is permitted except the exercise of eminent domain powers. The law permits each taxing authority that taxes the property to release its claim for the delinquent taxes, on the basis of either individual parcels or a prospective agreement covering all acquired parcels.

The bill authorizes CLRCs to acquire tax-delinquent parcels in this manner, but, unlike the subdivisions, a CLRC need not obtain the consent of any taxing authority as a condition for the tax lien to be extinguished and the title passing to the CLRC clear of the tax lien. A CLRC may acquire parcels in this manner only during the CLRC's first two years of existence.

Additionally, when a CLRC receives tax-delinquent property, it is relieved of liability for a variety of pollution control related violations involving storage tanks, air pollution, solid and hazardous waste, chemical emergency response

planning, toxic chemicals, regulated operations, water conservancy districts, and water and sewage control under R.C. Chapters 3737., 3704., 3734., 3750., 3751., 3752., 6101., and 6111.

Tax certificates

Transfer of certificates

(R.C. 5721.36)

Under current law, the county treasurer may sell certificates for tax-delinquent parcels. The certificate represents a claim on the delinquent taxes if they are eventually paid, a claim on title to the parcel itself, or a claim on the proceeds from a tax sale of the parcel. The purchase price of a certificate is equal to the amount of the delinquent taxes, and entitles the purchaser to collect interest on that amount. Current law permits tax certificates to be transferred by the purchaser to another, but only if the certificates are first presented to the county treasurer.

The bill exempts CLRCs from the requirement to present certificates to the county treasurer before transferring them, and states that CLRCs may transfer or assign certificates "consistent with its public purposes and plan."

Use of funds

(R.C. 5721.31(E) and 5721.38)

Counties in which tax certificates are sold must establish a tax certificate administration fund. The fund receives most fees associated with the tax certificate procedures, and money in the fund is to be used to pay expenses associated with tax certificates. A second fund, the tax certificate redemption fund, must be created, composed of payments by property owners who redeem the property by paying the delinquency represented by a tax certificate. The redemption fund is used to repay certificate holders and for any other expenses associated with tax certificates, and interest earnings from the fund are credited to the county general fund. If a property owner overpays, the property owner may obtain a refund for the excess, but if no refund is requested within five years, the overpayment reverts to the county general fund.

The bill permits a county treasurer to use any "surplus" money in the tax certificate administration fund to pay expenses of a CLRC, and to use any interest from the tax certificate redemption fund and unclaimed overpayments from that fund to pay CLRC expenses.

Certificate foreclosure procedure and holding period

(R.C. 5721.37 and 5721.38)

Current law requires tax certificate holders to hold the certificate for at least one year before initiating a foreclosure action against the property, and to initiate the action within six years; interest on the certificate at the bid or negotiated rate accrues over this period. (If the certificate was purchased in a private negotiated sale instead of at public auction, the time limits may be negotiated to be different from one and six years.) The action may be initiated either by requesting that the county prosecutor file the action or by initiating a private civil action. The foreclosure proceeding is limited to the judicial foreclosure proceedings (i.e., civil actions); the lien represented by a tax certificate may not be foreclosed under the nonjudicial proceedings conducted by county boards of revision under R.C. 323.65 to 323.78.

The bill waives the one-to-six-year holding period if the certificate holder is a CLRC, so that a CLRC may initiate foreclosure earlier than one year and later than six years after the certificate was sold. The bill also permits liens represented by certificates to be foreclosed under the nonjudicial procedure. If a CLRC is a certificate holder, the foreclosure may be initiated under the nonjudicial procedure or a civil action such as that available for the foreclosure of mortgages.

Contacting property owners

(R.C. 5721.43)

Current law requires a certificate holder to wait at least one year after purchasing a certificate to contact a parcel owner to encourage or demand payment. The bill decreases that time for any certificate holder to one month, and excludes CLRCs from the limitation altogether. CLRCs may contact a property owner at any time after purchasing a certificate to encourage or demand payment.

Forfeited lands

(R.C. 5723.04, 5723.08, and 5723.11)

Under Chapter 5723. of the Revised Code, a tax-foreclosed parcel is forfeited to the state if no one purchases the property at two consecutive foreclosure sales. Under the bill, a CLRC is permitted to acquire forfeited lands for no consideration, free and clear of all taxes, and with all liens subordinate to the tax lien discharged.

The bill requires an owner whose property has been forfeited to claim any excess proceeds from the sale of property (if the property is sold for more than the

taxes and costs of the sale) within one year after the day of the sale under forfeiture. Any amount that is not claimed by an owner may be claimed by a CLRC. Under current law, an owner has six years to claim any excess.

Port authority plan for future development

Chapter 4582. regulates port authorities. Sections 4582.01 to 4582.20 apply exclusively to port authorities in existence on July 9, 1982. Sections 4582.21 to 4582.59 apply exclusively to a port authority created after July 9, 1982, and to a port authority in existence on that date if all subdivisions that created the port authority elect to operate under those sections.

The bill requires all port authorities to prepare a plan for future development, construction, and improvement of the port and its facilities. The plan must include maps, profiles, and other data and descriptions as necessary to describe the location and character of the work to be undertaken. Plans and proposed plans by a port authority and its public and private affiliates for the plan also must contain a description of any and all financing under bonds, leases, or otherwise, and a description of any and all related tax abatements, tax credits, tax increment financing, emoluments, subsidies, grants, loans, and financial participation. When the plan is completed, the port authority board of directors must give specified notice in each county in which there is a political subdivision participating in the creation of the port authority, and must serve notice upon any owners of the uplands contiguous to any submerged lands affected by such plan. The board must permit the inspection of the plan at their office by all interested persons. The notice must fix the time and place for a hearing of all objections to the plan, which must be not less than 30 nor more than 60 days after the last publication of the notice and after service of notice upon the owners of any uplands. Any interested person may file written objections to the plan, with the secretary of the board of directors at the secretary's office not less than five days prior to the date of the hearing. After the hearing, the board of directors may adopt the plan with any modifications or amendments to it as the official plan of the port authority. (R.C. 4582.07 and 4582.32.)

The bill authorizes the board of directors, from time to time after the adoption of an official plan, to modify, amend, or extend the plan but requires the board to give notice and conduct a hearing as described above on the modification, amendment, or extension. Additionally, the bill authorizes the board, from time to time after the adoption of an official plan, to consider, implement, modify, amend, or extend any proposal for any type of financing related to the plan as described above, but the board must give notice and conduct a hearing on any proposal. (R.C. 4582.08 and 4582.33.)

Lastly, the bill provides that the plan and any modification, amendment, or extension of the plan, when adopted by the board of directors after notice and hearing, is final and conclusive and its validity must be conclusively presumed (R.C. 4582.09 and 4582.34).

HISTORY

ACTION	DATE
Introduced	07-17-08
Reported, S. State & Local Government & Veterans Affairs	---

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