



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 586\*

130th General Assembly  
(As Reported by H. Judiciary)

**Reps.** Stautberg and Ruhl, Beck, Becker, Blessing, McClain, McGregor

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## BILL SUMMARY

- Authorizes a judgment creditor to elect to have a "private selling officer" (PSO) rather than a court officer sell the judgment debtor's real estate upon levy and execution.
- Establishes procedures for the sale of a judgment debtor's real property by a PSO, including a sale conducted online.
- Requires that a judgment debtor's real estate that is to be sold upon execution be appraised at the fair market value indicated on the county auditor's records, unless the court authorizes a separate appraisal for good cause shown.
- Requires an officer who sells a judgment debtor's property consisting of one to four single-family units to submit quarterly reports to the Attorney General for the purpose of assessing the extent to which statutory deadlines relating to such sales are met.
- Requires the Attorney General to maintain a publicly available database containing the information reported and to adopt rules for the creation and administration of the database.

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## CONTENT AND OPERATION

The bill authorizes a judgment creditor to elect to have a "private selling officer" (PSO) rather than a court officer (usually the sheriff) conduct a public auction of land

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\* This analysis was prepared before the report of the House Judiciary Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

owned by the judgment debtor upon levy and execution. A "private selling officer" is someone who is both a licensed auctioneer and a licensed real estate agent.<sup>1</sup>

### **Sale by a private selling officer**

Under the bill, a judgment creditor may elect to have the judgment debtor's real estate sold at public auction by a specified PSO after the court has granted a decree of foreclosure and order of sale. The creditor makes the election by filing with the court clerk a praecipe requesting the issuance of an order of sale to the PSO. When the praecipe has been filed and the property appraised, the clerk must immediately issue to the PSO an order of sale. The PSO must then advertise and sell the real estate in accordance with the Revised Code.<sup>2</sup>

The bill allows a PSO to sell the property online or at any physical location in Ohio.<sup>3</sup> A PSO who holds an auction at a physical location may accept written or electronically transmitted bids before the auction from the judgment creditor or any lienholder who was a party to and appeared in the action in which the court ordered the sale.<sup>4</sup> The PSO may not require a judgment creditor or lienholder who was a party and appeared in the action to pay a deposit.<sup>5</sup>

A judgment creditor who elects to have the debtor's real estate sold by a PSO may instruct the PSO to postpone the sale one or more times for up to 180 days after the initial date for which the sale is set. On receiving such an instruction, the PSO must postpone the sale by announcing at the auction that the sale is postponed and the date, time, and location of the new sale. If the sale is online, the PSO must post the announcement on the website through which the sale was to be conducted. The announcement serves as notice of the subsequent sale.<sup>6</sup>

The bill requires that the appraisal, publication, and other expenses of a sale conducted by a PSO, including the PSO's fee, be paid by the judgment creditor or from the judgment creditor's portion of the proceeds of the sale. The PSO must file with the court an itemized report of all the expenses of the sale, including the PSO's fees for marketing the real estate or conducting the sale. These charges are not included in the

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<sup>1</sup> R.C. 2329.152(H).

<sup>2</sup> R.C. 2329.152(A).

<sup>3</sup> R.C. 2329.152(E).

<sup>4</sup> R.C. 2329.152(B).

<sup>5</sup> R.C. 2329.152(C).

<sup>6</sup> R.C. 2329.152(D).



amount necessary to redeem the real estate or in the calculation of any deficiency judgment (a judgment for any balance of the debt remaining after the sale of the real estate).<sup>7</sup> (The Revised Code gives the debtor an opportunity to redeem the property before the court confirms the sale.<sup>8</sup>)

A PSO must hire a resident title insurance agent or company to perform title, escrow, and closing services related to the sale. By placing a bid, the purchaser appoints the PSO as the purchaser's agent for the sole purpose of accepting delivery of the deed. The PSO may execute the deed and record it on the purchaser's behalf, even though the deed may not actually have been delivered to the purchaser before it is recorded.<sup>9</sup>

## **Appraisal**

Real property must be appraised before it is sold at a public auction pursuant to a judicial order of sale. Under current law, the sheriff must call on three landowners in the county where the property is located to make an inquest and to return an estimate of the property's value. The bill provides instead that the appraised value normally is the fair market value indicated on the county auditor's records. For good cause shown, the court may authorize a separate appraisal, the cost of which becomes an expense of the sale.<sup>10</sup>

Once an appraisal has been made, the sheriff or PSO must immediately advertise and sell the property in the manner required by statute.<sup>11</sup>

## **Records of sale**

Current law, unchanged by the bill, requires the purchaser of real property sold upon execution to provide the officer who conducted the sale with the purchaser's contact information and in some cases with additional information. This information becomes part of the court's record and is a public record open to inspection. The bill expressly extends these provisions to sales conduct by PSOs.<sup>12</sup>

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<sup>7</sup> R.C. 2329.152(F).

<sup>8</sup> R.C. 2329.33 (unchanged by the bill).

<sup>9</sup> R.C. 2329.152(G).

<sup>10</sup> R.C. 2329.17, 2329.19, and 2329.20.

<sup>11</sup> R.C. 2329.18.

<sup>12</sup> R.C. 2329.271.

The bill requires every levying officer who conducts a judicial or execution sale of residential real estate consisting of one to four single-family units to submit quarterly reports to the Attorney General for the purpose of assessing the extent to which statutory deadlines relating to such sales are met. The reports must include data on each such sale conducted by the officer. The Attorney General must establish and maintain a publicly available database containing the reported information and must adopt rules for the creation and administration of the database.<sup>13</sup>

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## HISTORY

ACTION	DATE
Introduced	06-17-14
Reported, H. Judiciary	---

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<sup>13</sup> R.C. 2329.311.

