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Final Analysis
Legislative Service Commission

Am. Sub. S.B. 89
123rd General Assembly
(As Passed by the General Assembly)

Sens. Johnson, Fingerhut, Watts, Brady, Espy, Drake

Reps. Tiberi, Myers, Mead, Flannery, Salerno

Effective date: Emergency, August 3, 1999

ACT SUMMARY

- Clarifies that the jurisdiction of the environmental division of a municipal court in foreclosure actions and actions for the recovery of real property are limited to actions that are related to judgments of the environmental division.
- Clarifies that the concurrent jurisdiction of the environmental division of a municipal court in environmentally related criminal actions is with the court of common pleas.
- Specifies that the presiding judge and the administrative judge of a municipal court with two or more judges or of a county court district with two or more judges are to be elected or designated as provided in the Rules of Superintendence for the Courts of Ohio.
- Renames the Lancaster Municipal Court as the Fairfield County Municipal Court effective January 2, 2000.
- Revises the consent Ohio gives to the United States for acquisition of land in Ohio required for a governmental purpose and revises the jurisdiction ceded to the United States over those lands.

CONTENT AND OPERATION

Jurisdiction of the environmental division of a municipal court in foreclosure actions

Prior law

Under prior law, in addition to jurisdiction otherwise granted in Chapter 1901., the environmental division of a municipal court had jurisdiction in the following actions or proceedings and to perform the following functions within its territory:

(1) The environmental division had jurisdiction in all actions for the foreclosure of a mortgage on real property given to secure the payment of money, or the enforcement of a specific lien for money or other encumbrance or charge on real property, when the real property is situated within the territory. In those cases, the environmental division could proceed to foreclose all liens and all vested and contingent rights and proceed to render judgments, and make findings and orders, between the parties, in the same manner and to the same extent as in similar cases in the court of common pleas. (R.C. 1901.183(B).)

(2) The environmental division had jurisdiction in all actions for the recovery of real property situated within the territory of the division to the same extent as the court of common pleas has jurisdiction (R.C. 1901.183(C)).

Operation of the act

Under the act, *when in aid of execution of a judgment of the environmental division of the municipal court*, the environmental division has jurisdiction in all actions for the foreclosure of a mortgage on real property given to secure the payment of money, or the enforcement of a specific lien for money or other encumbrance or charge on real property, when the real property is situated within the territory. In those cases, the environmental division may proceed to foreclose all liens and all vested and contingent rights and proceed to render judgments, and make findings and orders, between the parties, in the same manner and to the same extent as in similar cases in the court of common pleas. Therefore, the act eliminates the division's jurisdiction in actions of that nature involving a judgment of a court other than a municipal court, a municipal court other than the municipal court of which it is a division, or another division of its municipal court. (R.C. 1901.183(B).)

The act further provides that, *when in aid of execution of a judgment of the environmental division of the municipal court*, the environmental division has

jurisdiction in all actions for the recovery of real property situated within the territory of the division to the same extent as the court of common pleas has jurisdiction. Therefore, the act eliminates the division's jurisdiction in actions of that nature involving a judgment of a court other than a municipal court, a municipal court other than the municipal court of which it is a division, or another division of its municipal court. (R.C. 1901.183(C).)

Concurrent jurisdiction of environmentally related criminal actions.

Prior law provided that the environmental division of a municipal court had concurrent jurisdiction of all criminal actions or proceedings related to the pollution of the air, ground, or water within the territory of the environmental division of the municipal court, for which a sentence of death cannot be imposed under Chapter 2903. of the Revised Code.

The act states that the environmental division's concurrent jurisdiction is *with the court of common pleas* in all criminal actions or proceedings related to the pollution of the air, ground, or water within the territory of the environmental division of the municipal court, for which a sentence of death cannot be imposed under Chapter 2903. of the Revised Code. (R.C. 1901.183(H).)

Appointment or election of presiding and administrative judges

Continuing and prior law

Continuing law provides that in a municipal court having only one judge, that judge is to be designated as both the presiding judge and the administrative judge. Under prior law, if a municipal court has two judges, the judge whose term next expired was to be designated as the presiding judge. If a municipal court had three or more judges, the judges of the court were required to select the presiding judge on the second Monday in January of the even-numbered years. (R.C. 1901.09.)

Continuing law also provides that in a county court district having only one judge, that judge is to be the presiding and administrative judge for that district. Under prior law, if a county court district had two judges, the judge having the longest tenure as a judge of that county court district was to be designated as the presiding and administrative judge for that district unless otherwise agreed by the judges. If a county court district had three or more judges, the judges of the court were required to select the presiding and administrative judge on the second Monday in January of the odd-numbered years. (R.C. 1907.131.)

Rules of Superintendence for the Courts of Ohio

Rule 3 of the Rules of Superintendence for the Courts of Ohio states that presiding judges should be selected as follows:

The judges of each multi-judge court, by a majority vote of the judges of the court, shall elect a presiding judge from the judges of the court. If the judges are unable because of equal division of the vote to elect a presiding judge, the judge having the longest total service on the court shall serve as presiding judge for one term. If two or more judges have equal periods of service on the court, the presiding judge shall be determined by lot from the judges with equal periods of service. In the event of a continued failure to elect a presiding judge, the judges of the court shall rotate the position based on the order of seniority as determined by the total length of service on the court. (Sup. R. 3(A)(1).)

Rule 4 of the Rules of Superintendence for the Courts of Ohio states that administrative judges should be selected as follows:

In each court of appeals, each multi-judge municipal and county court, and each multi-judge division of the court of common pleas, the judges of the court or division, by a majority vote of the judges of the court or division, shall elect an administrative judge from the judges of the court or division. If the judges of a court or division are unable to elect an administrative judge, the judge of the court or division having the longest total service on the court or division shall serve as administrative judge for one term. If two or more judges have equal periods of service on the court or division, the administrative judge shall be determined by lot from the judges with equal periods of service. In the event of a continued failure to elect an administrative judge, the judges of the court or division shall rotate the position based on the order of seniority as determined by the total length of service on the court or division. (Sup. R. 4(A)(1).)

Operation of the act

The act maintains the law stating that in a municipal court or county court district having only one judge, that judge is to be designated as both the presiding judge and the administrative judge. Under the act, however, if the municipal court or county court district has two or more judges, the presiding and administrative judge must be elected or designated as provided in the Rules of Superintendence for the Courts of Ohio. (R.C. 1901.09 and 1907.131.)

Renaming the Lancaster Municipal Court as the Fairfield County Municipal Court

The act renames the Lancaster Municipal Court as the Fairfield County Municipal Court, effective January 2, 2000. The Lancaster Municipal Court will continue in operation until January 2, 2000, at which time it will cease operations, and its existence will terminate. The Fairfield County Municipal Court begins operations on January 2, 2000. All causes, executions, and other proceedings pending in the Lancaster Municipal Court on January 1, 2000, must be transferred to and proceed in the Fairfield County Municipal Court on January 2, 2000, as if originally instituted in the Fairfield County Municipal Court. The judge who was elected in 1997 and the judge who will be elected in 1999 to the Lancaster Municipal Court will serve as judges of the Fairfield County Municipal Court until the end of those judges' terms. All employees of the Lancaster Municipal Court must be transferred to and become employees of the Fairfield County Municipal Court on January 2, 2000. On January 2, 2000, the clerk of the Lancaster Municipal Court will be known as the clerk of the Fairfield County Municipal Court, and all employees of the clerk of the Lancaster Municipal Court must be transferred to and become employees of the clerk of the Fairfield County Municipal Court. (R.C. 1901.02 and 1901.08; Sections 3 through 6.)

Granting consent to the United States to acquire property in Ohio

Prior law

Section 8, Article I of the United States Constitution provides that the Congress has the power to exercise exclusive legislation over all places purchased by the consent of the legislature of the state in which the property is located, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.

Under prior law, R.C. 159.03 gave the consent of Ohio in accordance with clause 17, Section 8, Article I, United States Constitution, to the acquisition, between May 6, 1902, and March 14, 1980, by the United States, by purchase, condemnation, or otherwise, of any land in Ohio required for sites for custom houses, courthouses, post offices, arsenals, or other public buildings whatever, or

for any other purposes of the government. R.C. 159.03 gave, on and after March 14, 1980, the consent of Ohio to the acquisition by the United States by purchase, condemnation, or otherwise, of any land in Ohio required for sites for national parks, national monuments, or national recreational areas provided acquisition of the land commenced prior to March 14, 1980.

Formerly, under R.C. 159.04, exclusive jurisdiction in and over any land acquired by the United States was ceded to the United States, for all purposes except the service upon those sites of all civil and criminal process of Ohio courts. The jurisdiction so ceded continued no longer than the United States owned the lands. The Governor could accept, on behalf of Ohio, retrocession of full or partial jurisdiction over any roads, highways, or other lands in federal enclaves where the appropriate federal authority offered the retrocession. The Governor was required to deliver the documents executed by the federal authority and the Governor concurring in the retrocession, for recording, to the office of the recorder of the county in which the lands were located.

Operation of the act

The act repeals the provision granting consent to the acquisition by the United States of any land in Ohio required for sites for national parks, national monuments, or national recreational areas provided acquisition of the land commenced prior to March 14, 1980. Under the act, Ohio consents to the acquisition, *after* May 6, 1902, by the United States, by purchase, condemnation, *lease* (added by the act), or otherwise, of any land in Ohio required for sites for custom houses, courthouses, *correctional institutions* (added by the act), post offices, arsenals, or other public buildings whatever, or for any other purposes of the government. (R.C. 159.03.)

The act also revises the jurisdiction over the land acquired by the United States. Under the act, exclusive *or concurrent* jurisdiction in and over any land acquired by the United States is ceded to the United States. The act repeals the limitation on the federal jurisdiction regarding service of process upon those sites. The jurisdiction ceded continues only as long as the United States owns *or holds legal interest in* (added by the act) the lands. The granting of exclusive or concurrent jurisdiction to the United States takes effect only upon the granting of either form of jurisdiction by the Governor to the United States and the acceptance of either form of jurisdiction by the United States. The act specifies that nothing in R.C. 159.04 is intended to modify, revoke, or in any way affect any prior grant of jurisdiction by the state to the United States that was made prior to the effective date of the amendment. (R.C. 159.04.)

HISTORY



ACTION	DATE	JOURNAL ENTRY
Introduced	03-04-99	p. 161
Reported, S. Judiciary	04-20-99	p. 318
Passed Senate (33-0)	04-20-99	pp. 319-320
Reported, H. Criminal Justice	06-29-99	p. 1122
Passed House (97-0)	06-30-99	pp. 1151-1154
Senate concurred in House amendments (32-0)	06-30-99	pp. 874-876

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